

*D. M. Anderson.*  
FOREIGN LABOR LAWS.

# BULLETIN

OF THE

# DEPARTMENT OF LABOR.

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No. 25—NOVEMBER, 1899.

ISSUED EVERY OTHER MONTH.

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EDITED BY

CARROLL D. WRIGHT,  
COMMISSIONER.

OREN W. WEAVER,  
CHIEF CLERK.

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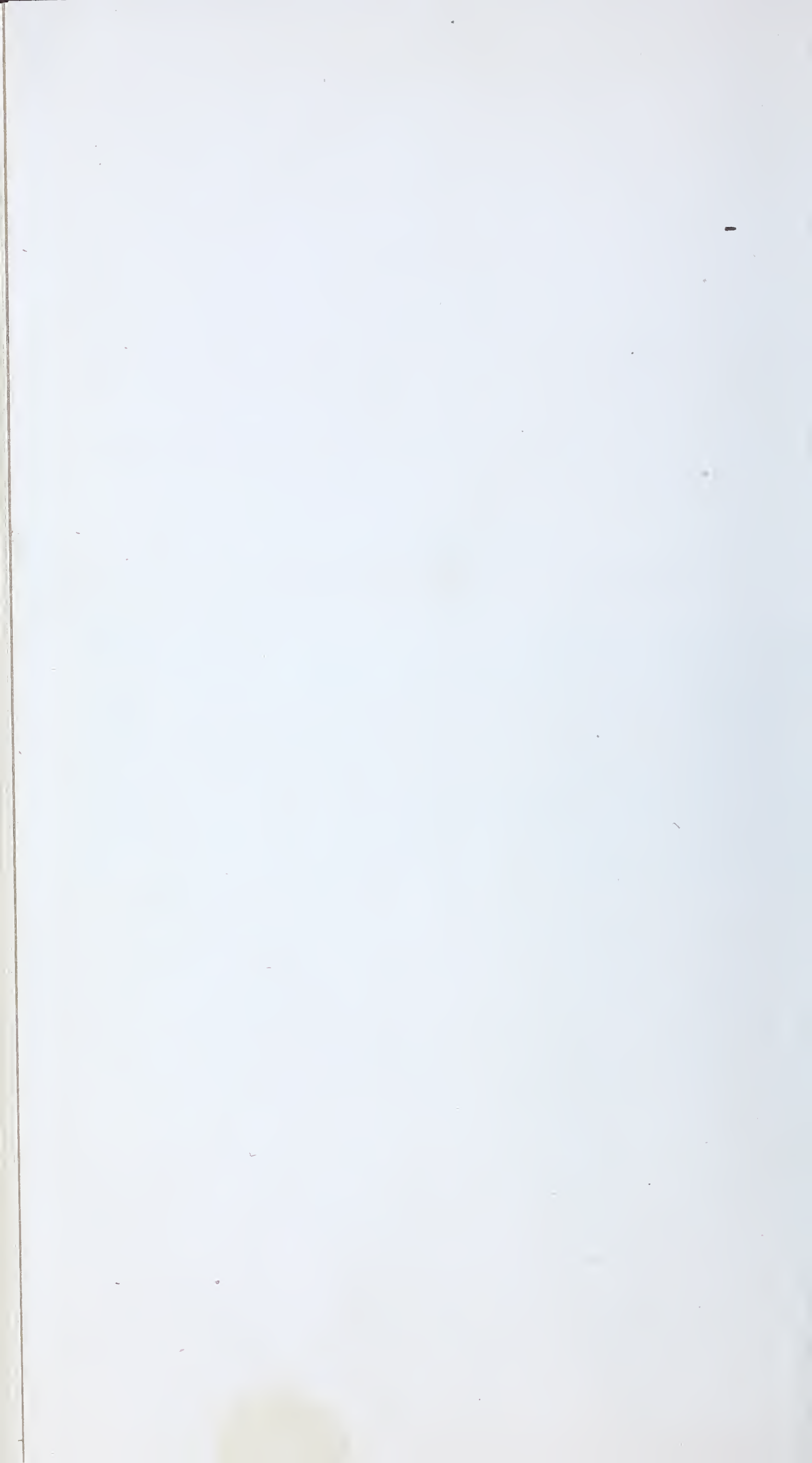
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**STATISTICS OF CITIES—EDITORIAL NOTE.**

In attempting to carry out the act of Congress approved July 1, 1898, under which the Commissioner of Labor is authorized to compile and publish annually, as a part of the Bulletin of the Department of Labor, an abstract of the main features of the official statistics of the cities of the United States having over 30,000 population, it was necessary in the initial report to make some arbitrary distinctions in order to secure fair uniformity of data from all the cities involved. The first annual publication of these statistics was made in Bulletin No. 24, for September last.

When the work of investigation was begun the officers of the Department, recognizing the diversity of conditions under which these cities had their origin and growth, realized that a line must be drawn between functions everywhere recognized as purely municipal and those operated by semipublic boards and commissions. For instance, it was anticipated that hospitals, asylums, almshouses, schools, libraries, etc., would be found which were originally private, or substantially so, but which as the years went by had come more and more into the receipt of aid and support from the municipalities in which they existed.

Realizing this mixed condition, it was decided that in this first year of gathering these statistics the line should be drawn with strictness, and inclusion be made only of institutions recognized locally as supported and controlled purely by the municipality. A reason for this lay in the fact that it was felt that when the exact truth, in all its length and breadth, should be known about each of these cases it would be found that there was a steady shading off from absolute city ownership and control slowly, by degrees, down to private ownership pure



and simple, and the line not rigidly drawn at the former point could not afterwards be drawn satisfactorily at any point. Directions, therefore, to that effect were given to the field agents of the Department, and city officials also were so informed whenever occasion arose.

Under this decision a free library in one of our larger cities (Baltimore), spoken of locally as the city library and doubtless supposed by the mass of citizens to be under city ownership and control, was excluded. This placed one of our leading commercial cities before the public as without the advantages of a great free library—a position, it is manifest, it should not occupy. It is quite possible there are other cases where institutions for the use and benefit of the public, and generally supposed to be under its control, have been thus excluded, making it appear that such necessities were entirely wanting. In view of these facts, the officers of the Department are now satisfied that all these classes of semipublic institutions, substantially filling a public want, must hereafter be included in the annual presentation of these statistics, and they will be so included unless sound reasons are brought against it. By this is meant that, in addition to the before-mentioned institutions, whatever function, commonly performed by a city in its character of a corporation, is found in a certain case to be administered by a board or commission, existing by special statute or other proper legal authorization, its operation will be considered a municipal function and its statistics included under their proper headings. It may be said, however, that in all these cases to which this note refers it is likely that the facts will be presented as supplemental to the regular tables or in such a way that the exact extent of city ownership and control can be seen.

In regard to debt, it was thought best to include simply the bonded, floating, and total debt of the cities as cities. It was at first considered as the only safe method to pursue, yet there are other features of city debts which probably ought to be included. As, for instance, in the city of Chicago there might be included that city's share of the indebtedness on account of the sanitary district, of which the city is the chief element. This was excluded in Bulletin No. 24, because the officers of the Chicago city government could not give the Department the proper proportion of that debt belonging to the city, and a note was made that data relating to the sanitary district had been excluded. This leads to the consideration of the question as to how far the debts of cities should include in the statistics to be published their proportion of the county and State debt. All these matters, which are practically outside of the arbitrary rule necessarily adopted in the first report, that nothing should be included except those things which absolutely belong to the city, will receive full and careful consideration when the data for the next annual statement are collected. In the meantime city officers and others can do this work a great service by offering to the Department not only their criticisms of the first annual statement,

but their suggestions for subsequent years, for under the act of Congress this publication of municipal statistics will be annual, and it is the desire of the officers of the Department of Labor to make it as complete and as valuable as possible. It is very gratifying to know that the city officials generally have taken a lively interest in this work. Uniformity of municipal statistics, as uniformity in other departments of statistics, is essential both to completeness and to the fullest value. The city officials and others interested in this matter are, therefore, earnestly requested to give their assistance to the Department.

EDS.



## FOREIGN LABOR LAWS.

BY W. F. WILLOUGHBY.

### INTRODUCTION.

The aim of the present article (*a*) is to show in as concrete a form as is practicable the laws having for their purpose the regulation of labor in the chief industrial countries of Europe. The chief difficulty encountered in making this study has been to determine the classes of laws that should be included. It is almost impossible to make a classification of subjects properly coming under the designation of labor legislation that would be generally accepted by lawyers and economists for all purposes. No such attempt has therefore been made. The study has been given a strictly definite and limited scope. The legislation included may be grouped under the following six heads:

1. Protective labor laws, (*b*) or those relating to employment of women and children, protection of the health and lives of employees, inspection of factories, payment of wages, Sunday and night work, etc.
2. The labor contract as far as it is regulated by specific statutes.
3. Apprenticeship.
4. Right of association, under which term are included laws relating to guilds, trade unions, temporary coalitions or strikes and lockouts, blacklisting, etc.
5. Arbitration and conciliation of industrial disputes.
6. Organization of bureaus of statistics of labor.

In order that there may be no misunderstanding regarding the ground covered it may be well to notice the classes of laws that are not included. The most important omission is that of laws in relation to employer's liability. Their exclusion is due to the fact that they have been so largely modified or replaced by laws relating to the insurance of workingmen that their consideration would have necessitated an account of such insurance laws, a subject which, on account of its complexity, could more properly be made the object of a special study. Other classes of laws omitted are those relating to the special industries

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*a* In the present Bulletin the labor laws of Great Britain and France are considered. The labor legislation of other European countries will be given in a subsequent Bulletin.

*b* This is the term usually employed in Europe to designate the classes of laws noted in this division. The American term "factory laws" is not sufficiently comprehensive.



of mining, transportation, agriculture, and the fisheries, to mechanics' liens and exemption of wages or tools from attachment, and that large class of social legislation relating to such subjects as workingmen's houses, cooperation, savings banks, and poor relief.

As regards the subjects that are included the treatment is intended to be comprehensive. The effort has been made to mention every important point contained in the laws considered. The single exception to this is that the provisions of the laws relating to the methods of legal procedure to be followed in prosecuting infractions of the acts, the admissibility of evidence, etc., have been reproduced only in the form of a summary.

In the case of Great Britain, the laws have been presented to a considerable extent in the language of the acts themselves; in the case of the other countries but little effort has been made to follow the language of the acts except where brief acts relating to particular definite subjects have been passed. Here it has sometimes been thought best to reproduce the act in full. This difference in treatment was believed to be desirable on account of the more immediate interest of the United States in the legislation of Great Britain than in that of the continental countries.

After some hesitation regarding the best method of presenting the material, it was finally decided that it was preferable to treat the laws by countries rather than by subject-matter. To have done otherwise would have made it difficult to obtain a general idea of the whole policy of each country regarding the regulation of labor and industry, and the stage to which such legislation had advanced. Legislation in regard to different points, moreover, is often so closely related that it would be difficult to consider it in different places. The same scheme of presentation has, however, been followed as far as possible in the case of each country, so that but little difficulty will be experienced in finding the law in force in each country regarding any point concerning which information is sought.

In attempting a comparison of the labor laws as here given with those of the United States, it is important to notice the essential difference between the theory of legislation as practiced in Europe and our own. In Europe, in marked contrast with the American practice, the laws in many cases but lay down general principles and leave to the administrative authorities the determination of particular conditions. Accompanying many laws are, therefore, numerous decrees or administrative orders containing provisions that in the United States would be incorporated in the laws themselves. The authorities are usually given large powers both in the matter of determining the character of these provisions and in permitting exemptions from them where the enforcement of the law would work a hardship. Where such authority exists it has been accordingly noted; but, as these decrees are subject to constant change, only in exceptional instances have their provisions been reproduced.



Originally it was intended not to make any attempt to trace the history of labor legislation in each country. As the work developed, however, it became evident that some reference to prior legislation should be made if the existing laws are to be fully understood. A brief sketch of former conditions and the development of the existing system for the regulation of labor have, therefore, been given wherever such an account seemed to be necessary.

### GREAT BRITAIN. (*a*)

The development of the present system of labor legislation in Great Britain can best be traced by following separately its course in respect to the two main groups into which legislation in relation to labor may be divided.

The first group includes those laws having for their purpose the fixing of the legal status of the workingman as such—that is, his rights and duties toward his employer, the law relating to the making and breaking of the labor contract, the settlement of labor disputes, and the right of workingmen to form organizations for the purpose of obtaining better conditions from their employers.

The second group comprehends that more clearly defined body of labor laws known as protective labor legislation and embraces all classes of factory acts and laws the purpose of which is to come to the aid of workingmen when, on account of their economic dependence, they are unable fully to protect themselves.

Though this twofold division may not be in every respect a scientific one, it furnishes in the present case a useful purpose in facilitating the comprehension of the essential features of British labor legislation and the manner in which it has arisen.

The early legislation as regards the first group was so radically different from that now in force that only brief mention need be made of it. The character of this legislation can best be seen in the statute of laborers of Edward III and the statute of apprentices of Elizabeth (5 Eliz., c. 4). In the latter law the attempt was made to combine in one act prior existing legislation. The theory of this legislation was

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*a* In the summary of the laws in Great Britain here given use has in all cases been made of copies of the laws themselves. In the analysis, and especially in the statement of prior existing legislation, use has, however, been made of other works, among which the following should be mentioned:

Dictionary of Political Economy, edited by R. H. Inglis Palgrave. Parts I and II. London, 1894-96.

The Law Relating to Factories and Workshops, by May E. Abraham. London, 1896.

A Handy-Book of the Labor Laws, by George Howell. Third edition. London, 1895.

Sixth Annual Report of the Massachusetts Bureau of Statistics of Labor. Part III. Boston, 1875.

The Conflicts of Capital and Labor, by George Howell. London, 1878.

The State in Relation to Labor (English citizen series), by W. Stanley Jevons. London, 1887.



the diametric opposite of that of recent years. Labor and industry, instead of possessing the greatest possible freedom, were subjected to rigid regulations. No person could be a master or carry on a handicraft who had not served as an apprentice for at least seven years; the number of apprentices to journeymen that tradesmen could have was strictly limited; the rate of wages was to be fixed by the justices of the peace; hours of labor were fixed at twelve per day in summer and from daybreak to nightfall in winter, and numerous other regulations were decreed.

This law, though supplemented by other legislation, remained in force without material modification until the present century. In 1809 the regulations concerning apprentices were abolished in the woolen industry; in 1811 the clause requiring justices of the peace to fix wages, which for many years had not been observed, was repealed; and in 1814 the apprenticeship clause was abolished as regards all industries. This date may be said to mark the definite setting aside of the old industrial system, though certain minor features of the old Elizabethan laws were not formally repealed until as late as 1875. By these various acts industry was definitely freed. Persons could engage in such pursuits as they chose and make their own contracts of employment.

The point has now been reached when an examination can be made of the particular measures of labor legislation that were enacted during the present century to take the place of the old laws that were repealed.

#### RIGHT OF ASSOCIATION: TRADE UNIONS.

In the preceding section the relation of workingmen as individuals with their employers has been considered. It now remains to consider the law relating to the right of workingmen to associate and form organizations in order that they may collectively seek to secure improved conditions of labor.

All legislation enacted prior to the present century was hostile to the right of workingmen to form organizations. Such were the laws of conspiracy, and most important of all the combination laws. In spite of these laws workingmen formed secret organizations of various kinds and often acted collectively to enforce their demands. In consequence of this Parliament in 1800 passed a more comprehensive law against labor organizations (39 and 40 Geo. III, c. 106) than had been hitherto enacted. By this law all agreements between journeymen or other workmen for obtaining higher wages, a reduction of hours of labor, or any other change in the conditions of employment were declared to be illegal, and persons entering into such agreements could be summarily committed to prison by justices of the peace. The same penalty was imposed upon persons attempting by persuasion, intimidation, or otherwise to prevent any workingman from accepting or continuing in employment.

Strangely enough this, the most radical measure directed against the right of workingmen to combine, was the last of the long series of



repressive measures. Almost immediately after its adoption the current of public opinion began to set in the opposite direction, and in 1824 was passed an act (5 Geo. IV, c. 95) which completely reversed the policy hitherto pursued. This act repealed all the combination laws as far as they related to workingmen. It also provided that persons joining combinations of workingmen for obtaining an advance in wages or lessening hours of labor, or for any other specified purpose, should not be liable to prosecution for conspiracy. Another section related to the conduct of workingmen in attempting to accomplish their objects through strikes or otherwise. It made the use of violence, threats, intimidation, or similar conduct an offense punishable by imprisonment.

The law was a most liberal measure. Unfortunately, severe labor troubles followed almost immediately its enactment, and their occurrence was attributed to the new law. In consequence, in the following year, 1825, the law was repealed and replaced by the act of 6 Geo. IV, c. 129.

This act followed the lines of the one repealed, but limited more closely the right of workingmen to form organizations. The repeal of all laws against combinations was maintained. The clause specifically permitting the formation of labor organizations limited this right merely to those for the two purposes of determining the wages or hours of labor of the persons actually present at the meeting taking action. All other combinations or agreements of workingmen to the prejudice of third parties were still punishable as conspiracies under the common law. The clause directed to the prohibition of the use of threats, intimidations, and the like was also made more stringent. In 1859 this law was amended and explained by 22 Vict., c. 34; but, with this exception, continued in force until finally repealed in 1875.

The first act passed in favor of trade unions as such was the temporary act of 1869 (32 and 33 Vict., c. 61), the purpose of which was to give a measure of protection to the funds of these organizations. The position had now been reached where trade unions were formally recognized by law. Attempts at their prohibition were henceforth definitely abandoned. Subsequent legislation was directed rather to their protection.

In 1871 was passed the trade union act (34 and 35 Vict., c. 31), which, with its amendment (39 and 40 Vict., c. 22) enacted in 1876, constitutes the fundamental law of the present time concerning these societies.

In the meantime Parliament, in 1875, as is shown in the section relating to the labor contract, passed two acts, the employers and workmen act (38 and 39 Vict., c. 90) and the conspiracy and protection of property act (38 and 39 Vict., c. 86). The former of these two acts is considered in the section referred to; the latter should be here considered in connection with the trade union acts of 1871 and 1876.

In general the distinction between the acts is that the trade union acts are devoted to defining the legal position of trade unions, and



especially to creating a scheme for their legal registration and the fixing of the privileges and duties resulting from this action, while the conspiracy and protection of property act concerns itself with a determination of the way in which these organizations and other combinations of workmen can act in attempting to forward their objects. The latter act thus defines the law concerning conspiracy as applied to labor disputes, and establishes the law regarding strikes, lockouts, picketing, boycotts, etc. Each of these acts will be considered in turn. Their importance is such that it is desirable in many places to reproduce the provisions of the laws verbatim.

#### THE TRADE UNION ACTS, 1871 AND 1876.

The definition of trade union as comprehended by the act of 1871 was a restricted one. Under it, in order for a society to be registered as a trade union, it was necessary that it should have been an illegal organization but for the act. The amendment of 1876 had as one of its main purposes the enlargement of the scope of the principal act. It repealed the section of the law of 1871 defining a trade union, and in its place substituted the following definition:

The term "trade union" means any combination, whether temporary or permanent, for regulating the relations between workmen and masters, or between workmen and workmen, or between masters and masters, or for imposing restrictive conditions on the conduct of any trade or business, whether such combination would or would not, if the principal act had not been passed, have been deemed to have been an unlawful combination by reason of some one or more of its purposes being in restraint of trade.

Under this definition are embraced not only trade unions proper, but such labor bodies as labor councils, federations of unions, and employers' associations. To be registered under these acts, however, the society must have as its purpose either the regulation of trade relations or the imposing of restrictive conditions on the conduct of trade. Mutual aid and other workmen's relief organizations must be registered under the laws relating to friendly societies as "specially authorized societies."

The legalization of trade unions, even though their purposes are in restraint of trade, is provided for in the following sections: "(1) The purposes of any trade union shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful, so as to render any member of such trade union liable to criminal prosecution for conspiracy, and otherwise. (2) The purposes of any trade union shall not, by reason merely that they are in restraint of trade, be unlawful so as to render void or voidable any agreement or trust." In this connection reference should also be made to the conspiracy and protection of property act, which provides that "an agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute between employers and workmen shall



not be indictable as a conspiracy if such act committed by one person would not be punishable as a crime."

In giving a legal standing to trade unions the law contains a rather remarkable provision, the purpose of which is to compel these organizations to manage their internal affairs in their own way without recourse to the courts in case of difficulties. The law thus provides:

Nothing in this act shall enable any court to entertain any legal proceeding instituted with the object of directly enforcing or recovering damages for the breach of any of the following agreements, namely:

1. Any agreement between members of a trade union as such, concerning the conditions on which any members for the time being of such trade union shall or shall not sell their goods, transact business, employ, or be employed;

2. Any agreement for the payment by any person of any subscription or penalty to a trade union;

3. Any agreement for the application of the funds of a trade union—(a) to provide benefits to members; or (b) to furnish contributions to any employer or workman not a member of such trade union in consideration of such employer or workman acting in conformity with the rules or resolutions of such trade union; or (c) to discharge any fine imposed upon any person by sentence of a court of justice; or,

4. Any agreement made between one trade union and another; or,

5. Any bond to secure the performance of any of the above-mentioned agreements.

But nothing in this section shall be deemed to constitute any of the above-mentioned agreements unlawful.

The most essential feature of the system created by this act for the legal regulation of trade unions is that providing for the registration of these societies in the office of the registrar of friendly societies. This registration is not obligatory. Such action, however, was deemed to be desirable, and in consequence various rights and privileges are conferred upon those unions which voluntarily subject themselves to the measure of control which such action imposes upon them. In the following paragraphs are reproduced those sections of the act which first set forth the nature and conditions of registration, and secondly determine the rights and privileges which such action confers upon societies taking this step:

Any seven or more members of a trade union may, by subscribing their names to the rules of the union and otherwise complying with the provisions of this act with respect to registry, register such trade union under this act, provided that if any one of the purposes of such trade union be unlawful such registration shall be void.

With respect to the registry of a trade union, under this act, and of the rules thereof, the following provisions shall have effect:

1. An application to register the trade union and printed copies of the rules, together with a list of the titles and names of the officers, shall be sent to the registrar under this act.

2. The registrar, upon being satisfied that the trade union has complied with the regulations respecting registry in force under this act, shall register such trade union and such rules.

3. No trade union shall be registered under a name identical with that by which any other existing trade union has been registered, or so nearly



resembling such name as to be likely to deceive the members or the public.

4. When a trade union applying to be registered has been in operation for more than a year before the date of such application, there shall be delivered to the registrar before the registry thereof a general statement of the receipts, funds, effects, and expenditure of such trade union in the same form and showing the same particulars as if it were the annual general statement required as hereinafter mentioned to be transmitted annually to the registrar.

5. The registrar, upon registering such trade union, shall issue a certificate of registry, which certificate, unless proved to have been withdrawn or canceled, shall be conclusive evidence that the regulations of this act with respect to registry have been complied with.

6. One of Her Majesty's principal secretaries of state may from time to time make regulations respecting registry under this act, and respecting the seal (if any) to be used for the purpose of such registry, and the inspection of documents kept by the registrar under this act, and respecting the fees (if any) to be paid on registry not exceeding the fees specified in the second schedule of this act, and generally for carrying this act into effect.

With respect to the rules of a trade union registered under this act, the following provisions shall have effect:

1. The rules of every such trade union shall contain provisions in respect of the several matters mentioned in the first schedule to this act. (a)

2. A copy of the rules shall be delivered by the trade union to every person on demand on payment of a sum not exceeding 1s. [24 cents].

Every trade union registered under this act shall have a registered office to which all communications and notices may be addressed; if any trade union under this act is in operation for seven days without having such an office, such trade union and every officer thereof shall incur a penalty not exceeding £5 [\$24.33] for every day during which it is so in operation.

Notice of the situation of such registered office, and of any change therein, shall be given to the registrar and recorded by him. Until such notice is given the trade union shall not be deemed to have complied with the provisions of this act.

A general statement of the receipts, funds, effects, and expenditure of every trade union registered under this act shall be transmitted to the registrar before the first day of June in every year, and shall show fully the assets and liabilities at the date and the receipts and expenditure during the year preceding the date to which it is made out, of the

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a Following is a copy of the schedule here referred to:

Of matters to be provided for by the rules of trade unions registered under this act—

1. The name of the trade union and place of meeting for the business of the trade union.

2. The whole of the objects for which the trade union is to be established, the purposes for which the funds thereof shall be applicable, and the conditions under which any member may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any member of such trade union.

3. The manner of making, altering, amending, and rescinding rules.

4. A provision for the appointment and removal of a general committee of management, of a trustee or trustees, treasurer, and other officers.

5. A provision for the investment of the funds, and for an annual or periodical audit of accounts.

6. The inspection of the books and names of members of the trade union by every person having an interest in the funds of the trade union.



trade union; and shall show separately the expenditure in respect of the several objects of the trade union, and shall be prepared and made out up to such date, in such form, and shall comprise such particulars, as the registrar may from time to time require; and every member of, and depositor in, any such trade union shall be entitled to receive, on application to the treasurer or secretary of that trade union, a copy of such general statement, without making any payment for the same.

Together with such general statement there shall be sent to the registrar a copy of all alterations and rules and new rules and changes of officers made by the trade union during the year preceding the date up to which the general statement is made out, and a copy of the rules of the trade union as they exist at that date.

Every trade union which fails to comply with or acts in contravention of this section, and also every officer of the trade union so failing, shall each be liable to a penalty not exceeding £5 [\$24.33] for each offense.

Every person who willfully makes or orders to be made any false entry in or any omission from any such general statement, or in or from the return of such copies of rules or alterations of rules, shall be liable to a penalty not exceeding £50 [\$243.33] for each offense.

The registrars of the friendly societies in England, Scotland, and Ireland shall be the registrars under this act.

The registrars shall lay before Parliament annual reports with respect to the matters transacted by such registrars in pursuance of this act.

If any person with intent to mislead or defraud gives to any member of a trade union registered under this act or to any person intending or applying to become a member of such trade union a copy of any rules or of any alterations or amendments of the same other than those respectively which exist for the time being, on the pretense that the same are the existing rules of such trade union or that there are no other rules of such trade union, or if any person with the intent aforesaid gives a copy of any rules to any person on the pretense that such rules are the rules of a trade union registered under this act which is not so registered, every person so offending shall be deemed guilty of a misdemeanor.

The foregoing sections were contained in the act of 1871. They were supplemented by the following sections of the act of 1876, which relate chiefly to the conditions to be fulfilled by unions intending to do business in more than one country, to the cancellation of the certificate of registration, the change of name, and the dissolution of registered unions:

Trade unions carrying on, or intending to carry on, business in more than one country shall be registered in the country in which their registered office is situate; but copies of the rules of such unions, and of all amendments of the same, shall, when registered, be sent to the registrar of each of the other countries, to be recorded by him, and until such rules be so recorded the union shall not be entitled to any of the privileges of this act or the principal act in the country in which such rules have not been recorded, and until such amendments of rules be recorded the same shall not take effect in such country. In this section "country" means England, Scotland, or Ireland.

No certificate of registration of a trade union shall be withdrawn or canceled otherwise than by the chief registrar of friendly societies, or in the case of trade unions registered and doing business exclusively



in Scotland or Ireland by the assistant registrar for Scotland or Ireland, and in the following cases:

1. At the request of the trade union to be evidenced in such manner as such chief or assistant registrar shall from time to time direct.
2. On proof to his satisfaction that a certificate of registration has been obtained by fraud or mistake, or that the registration of the trade union has become void under section 6 of the trade union act (1871), or that such trade union has willfully and after notice from a registrar whom it may concern violated any of the provisions of the trade union acts or has ceased to exist.

Not less than two months' previous notice in writing, specifying briefly the ground of any proposed withdrawal or canceling of certificate (unless where the same is shown to have become void as aforesaid, in which case it shall be the duty of the chief or assistant registrar to cancel the same forthwith), shall be given by the chief or assistant registrar to a trade union before the certificate of registration of the same can be withdrawn or canceled, except at its request.

A trade union whose certificate of registration has been withdrawn or canceled shall from the time of such withdrawal or canceling absolutely cease to enjoy as such the privileges of a registered trade union, but without prejudice to any liability actually incurred by such trade union which may be enforced against the same as if such withdrawal or canceling had not taken place.

A trade union may, with the approval in writing of the chief registrar of friendly societies, or in the case of trade unions registered and doing business exclusively in Scotland or Ireland, of the assistant registrar for Scotland or Ireland, respectively, change its name by the consent of not less than two-thirds of the total number of members.

No change of name shall affect any right or obligation of the trade union, or of any member thereof, and any pending legal proceedings may be continued by or against the trustees of the trade union, or any other officer who may sue or be sued on behalf of such trade union, notwithstanding its new name.

Any two or more trade unions may, by the consent of not less than two-thirds of the members of each or every such trade union, become amalgamated together as one trade union, with or without any dissolution or division of the funds of such trade unions, or either or any of them; but no amalgamation shall prejudice any right of a creditor of either or any union party thereto.

Notice in writing of every change of name or amalgamation, signed in the case of a change of name by seven members and countersigned by the secretary of the trade union changing its name, and accompanied by a statutory declaration by such secretary that the provisions of this act in respect of changes of name have been complied with, and in the case of an amalgamation signed by seven members and countersigned by the secretary of each of every union party thereto, and accompanied by a statutory declaration by each or every such secretary that the provisions of this act in respect of amalgamations have been complied with, shall be sent to the central office established by the friendly societies act, 1875, and registered there, and until such change of name or amalgamation is so registered the same shall not take effect.

The rules of every trade union shall provide for the manner of dissolving the same, and notice of every dissolution of a trade union, under the hand of the secretary and seven members of the same, shall be sent within fourteen days thereafter to the central office hereinbefore mentioned; or, in the case of trade unions registered and doing busi-



ness exclusively in Scotland or Ireland, to the assistant registrar for Scotland or Ireland, respectively, and shall be registered by them: *Provided*, That the rules of any trade union registered before the passing of this act shall not be invalidated by the absence of a provision for dissolution.

A trade union which fails to give any notice or send any document which it is required by this act to give or send, and every officer or other person bound by the rules thereof to give or send the same, or, if there be no such officers, then every member of the committee of management of the union, unless proved to have been ignorant of or to have attempted to prevent the omission to give or send the same, is liable to a penalty of not less than £1 [\$4.87] and not more than £5 [\$24.33], recoverable at the suit of the chief or any assistant registrar of friendly societies or of any person aggrieved, and to an additional penalty of the like amount for each week during which the omission continues.

From the provisions defining the obligations and duties imposed upon trade unions desiring registration, attention is now turned to those conferring power and privileges upon unions taking this action.

It shall be lawful for any trade union registered under this act to purchase or take upon lease, in the names of the trustees for the time being of such union, any land not exceeding one acre, and to sell, exchange, mortgage, or let the same, and no purchaser, assignee, mortgagee, or tenant shall be bound to inquire whether the trustees have authority for any sale, exchange, mortgage, or letting, and the receipt of the trustees shall be a discharge for the money arising therefrom, and for the purpose of this section every branch of a trade union shall be considered a distinct union.

All real and personal estate whatsoever belonging to any trade union registered under this act shall be vested in the trustees, for the time being, of the trade union, appointed as provided by this act, for the use and benefit of such trade union and the members thereof, and the real or personal estate of any branch of a trade union shall be vested in the trustees of such branch, "or of the trustees of the trade union, if the rules of the trade union so provide," (a) and be under the control of such trustees, their respective executors or administrators, according to their respective claims and interests, and upon the death or removal of any such trustees the same shall vest in the succeeding trustees for the same estate and interest as the former trustees had therein, and subject to the same trusts, without any conveyance or assignment whatsoever, \* \* \* (b) and in all actions or suits or indictments or summary proceedings before any court of summary jurisdiction, touching or concerning any such property, the same shall be stated to be the property of the person or persons for the time being holding the said office of

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*a* This clause was added by the amendment of 1876. It makes the important provision that all the property of the branches of a trade union can be held by the trustees of the central union if the rules so provide.

*b* In the original act there was a clause excepting from the foregoing provision stocks and securities in the public funds of Great Britain and Ireland, and requiring them to be transferred into the names of the new trustees. The inconvenience arising from this requirement was remedied by the act of 1876, which provided that such securities belonging to the union could be transferred, in case of absence, bankruptcy, etc., of the trustee, by the surviving trustee or trustees or the proper officer of the Bank of England or Bank of Ireland.



trustee, in their proper names, as trustees of such trade union, without any further description.

The trustees of any trade union registered under this act, or any other officer of such trade union who may be authorized so to do by the rules thereof, are hereby empowered to bring or defend, or cause to be brought or defended, any action, suit, prosecution, or complaint in any court of law or equity, touching or concerning the property, right, or claim to property of the trade union; and shall and may, in all cases concerning the real or personal property of such trade union, sue and be sued, plead and be impleaded, in any court of law or equity, in their proper names, without other description than the title of their office; and no such action, suit, prosecution, or complaint shall be discontinued or shall abate by the death or removal from office of such persons, or any of them, but the same shall and may be proceeded in by their successor or successors as if such death, resignation, or removal had not taken place; and such successors shall pay or receive the like costs as if the action, suit, prosecution, or complaint had been commenced in their name for the benefit of or to be reimbursed from the funds of such trade union, and the summons to be issued to such trustee or other officers may be served by leaving the same at the registered office of the trade union.

A trustee of any trade union registered under this act shall not be liable to make good any deficiency which may arise or happen in the funds of such trade union, but shall be liable only for the moneys which shall be actually received by him on account of such trade union.

Every treasurer or other officer of a trade union registered under this act, at such times as by the rules of such trade union he should render such account hereinafter mentioned, or upon being required so to do, shall render to the trustees of the trade union, or to the members of such trade union at a meeting of the trade union, a just and true account of all moneys received and paid by him since he last rendered the like account, and of the balance then remaining in his hands, and of all bonds or securities of such trade union, which account the said trustees shall cause to be audited by some fit and proper person or persons by them to be appointed; and such treasurer, if thereunto required, upon the said account being audited shall forthwith hand over to the said trustees the balance which on such audit appears to be due from him, and shall also, if required, hand over to such trustees all securities and effects, books, papers, and property of the said trade union in his hands or custody; and if he fails to do so the trustees of the said trade union may sue such treasurer in any competent court for the balance appearing to be due from him upon the account last rendered by him, and for all the moneys since received by him on account of the said trade union, and for the securities and effects, books, papers, and property in his hands or custody, leaving him to set off in such action the sums, if any, which he may have since paid on account of the said trade union; and in such action the said trustees shall be entitled to recover their full costs of suit, to be taxed as between attorney and client.

If any officer, member, or other person being, or representing himself to be, a member of a trade union registered under this act, or the nominee, executor, administrator, or assignee of a member thereof, or any person whatsoever, by false representation or imposition obtain possession of any moneys, securities, books, papers, or other effects of such trade union, or, having the same in possession, willfully withhold or fraudulently misapply the same, or willfully apply any part of the



same to purposes other than those expressed or directed in the rules of such trade union, or any part thereof, the court of summary jurisdiction for the place in which the registered office of the trade union is situate, upon a complaint made by any person on behalf of such trade union, or by the registrar, or in Scotland at the instance of the procurator fiscal of the court to which such complaint is competently made, or by the trade union, with his concurrence, may, by summary order, order such officer, member, or other person to deliver up all such moneys, securities, books, papers, or other effects to the trade union, or to repay the amount of money applied improperly, and to pay, if the court think fit, a further sum of money, not exceeding £20 [\$97.33], together with costs not exceeding 20s. [\$4.87], and in default of such delivery of effects, or repayment of such amount of money, or payment of such penalty and costs aforesaid the said court may order the said person so convicted to be imprisoned, with or without hard labor, for any time not exceeding three months: *Provided*, That nothing herein contained shall prevent the said trade union, or in Scotland Her Majesty's advocate, from proceeding by indictment against the said party: *Provided, also*, That no person shall be proceeded against by indictment if a conviction shall have been previously obtained for the same offense under the provisions of this act.

To the foregoing provisions there should be added three sections of the amending act relating to the insurance of children under 10 years of age, membership of minors, and the right of members to nominate persons to whom insurance should be made on their death. These sections are as follows:

Notwithstanding anything contained in section 5 of the principal act (a) a trade union, whether registered or unregistered, which insures or pays money on the death of a child under 10 years of age, shall be deemed to be within the provisions of section 28 of the friendly societies act, 1875. (b)

A person under the age of 21, but above the age of 16, may be a member of a trade union unless provision be made in the rules thereof to the contrary, and may, subject to the rules of the trade union, enjoy all the rights of a member, except as herein provided, and execute all instruments, and give all acquittances necessary to be executed or given under the rules, but shall not be a member of the committee of management, trustee, or treasurer of the trade union.

A member of a trade union not being under the age of 16 years may, by writing under his hand, delivered at or sent to the registered office of the trade union, nominate any person not being an officer or servant of the trade union (unless such officer or servant is the husband, wife,

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a Section 5 declares that the friendly societies acts, the industrial and provident societies act, and the companies acts do not apply to trade unions, and that the registration of any trade union under any of them is void.

b Mr. Howell summarizes the important provisions of this section as follows:

(1) The limitation of payments on the death of a child under 5 years to £6 [\$29.20], inclusive of payments by any other society; and of £10 [\$48.67] for those under 10 years of age. (2) The parent of the child, or the personal representative of the parent, may alone receive payments on the death of any child under 10 years of age. (3) The particulars of the amount claimed, and the name of the society, are to be stated to the registrar of deaths on application for a certificate; the sum to be charged for such certificate is not to exceed 1s. [24 cents]. (4) Registrars of deaths are not to give certificates unless the cause of death has been previously entered in the register of deaths, on the certificate of a coroner, or of the registered medical practitioner who attended such deceased child during its last illness.



father, mother, child, brother, sister, nephew, or niece of the nominator), to whom any moneys payable on the death of such member, not exceeding £50 [\$243.33], (a) shall be paid at his decease, and may from time to time revoke or vary such nomination by a writing under his hand similarly delivered or sent, and on receiving satisfactory proof of the death of a nominator the trade union shall pay to the nominee the amount due to the deceased member not exceeding the sum aforesaid.

The foregoing provisions require but little comment. It will be observed that the obligation imposed by registration upon trade unions is little more than that of publicity, the filing of their constitutions and rules and the making of annual financial reports. The unions are left absolutely free to form such organizations as they desire, but the rules must contain information concerning a number of matters, such as the objects of the union, the making, altering, and rescinding of rules, the investment of funds, etc. The advantages enjoyed by registered trade unions are very substantial. The union can be represented by trustees, and can hold property in their names. The members are protected against dishonest officers through the obligation placed upon the latter to make reports and the facility afforded for recovering by an action at law any money or property misappropriated by them.

Leaving the consideration of these acts, there remains to be mentioned but two or three other laws having reference to trade unions. The most important of these is the trade union provident funds act, 1893 (56 Vict., c. 2), the purpose of which is to give to the funds of trade unions devoted to the provision of provident benefits the same exemption from the payment of the income tax as is enjoyed by the friendly societies.

This exemption is limited to registered trade unions, and only to those of this class whose rules provide that the amount assured to any member shall not exceed £200 (\$973.30), or an annuity not to exceed £30 (\$146). "Provident benefits" are defined to include "any payment made to a member during sickness or incapacity, from personal injury, or while out of work; or to an aged member by way of superannuation; or to a member who has met with an accident, or who has lost his tools by fire or theft; or a payment in discharge or aid of funeral expenses on the death of a member or wife of a member, or as a provision for the children of the deceased member, when the payment in respect whereof exemption is claimed is a payment expressly authorized by the registered rules of the trade union claiming the exemption."

Reference should also be made to the larceny and embezzlement act, 1868 (31 and 32 Vict., c. 116), and the falsification of accounts act, 1875 (38 and 39 Vict., c. 24), as in certain cases advantage can be taken of their provisions, apart from the right of action given in the trade union laws, to prosecute officers and members of trade unions guilty of larceny, embezzlement, or the falsification of union accounts.

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<sup>a</sup> Extended to £100 (\$486.65) by the provident nominations and small intestacies act, 1883.



**THE CONSPIRACY AND PROTECTION OF PROPERTY ACT, 1875.**

In the foregoing an account has been given of the laws having for their purpose the regulation of trade unions as permanent organizations. It is now necessary to consider the law setting forth the conditions under which, or the bounds within which, these organizations or any combination of workmen can take active steps, through strikes or otherwise, to compel employers to accede to their demands. This law is found in the conspiracy and protection of property act of 1875. As in the case of the trade union acts the provisions of this law can best be shown by reproducing its most important sections. The omitted sections are chiefly those relating to the repeal of former acts, the application of the law to Scotland and Ireland, and details of judicial procedure to be followed in prosecuting persons under the act. Following are the principal provisions of the act:

An agreement or combination by two or more persons to do, or procure to be done, any act in contemplation or furtherance of a trade dispute between employers and workmen shall not be indictable as a conspiracy if such act committed by one person would not be punishable as a crime. (a)

Nothing in this section shall exempt from punishment any persons guilty of a conspiracy for which a punishment is awarded by any act of Parliament.

Nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace or sedition, or any offense against the State or the Sovereign.

A crime for the purposes of this section means an offense punishable on indictment or an offense which is punishable on summary conviction and for the commission of which the offender is liable, under the statute making the offense punishable, to be imprisoned either absolutely or at the discretion of the court as an alternative for some other punishment.

Where a person is convicted of any such agreement or combination as aforesaid, to do or procure to be done an act which is punishable only on summary conviction, and is sentenced to imprisonment, the imprisonment shall not exceed three months, or such longer time, if any, as may have been prescribed by the statute for the punishment of the said act when committed by one person.

Where any person willfully and maliciously breaks a contract of service or of hiring, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be to endanger human life or cause serious bodily injury or to expose valuable property, whether real or personal, to destruction or serious injury, he shall, on conviction thereof by a court of summary jurisdiction or indictment, as hereinafter mentioned, be liable either to pay a penalty not exceeding £20 [\$97.33] or to be im-

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a The following sections of the trade union act, 1871, should be read in connection with this provision of the conspiracy act:

1. The purposes of any trade union shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful, so as to render any member of such trade union liable to criminal prosecution for conspiracy or otherwise.

2. The purposes of any trade union shall not, by reason merely that they are in restraint of trade, be unlawful so as to render void or voidable any agreement or trust.



prisoned for a term not exceeding three months, with or without hard labor.

Where a master, being legally liable to provide for his servant or apprentice necessary food, clothing, medical aid, or lodging, willfully and without lawful excuse refuses or neglects to provide the same, whereby the health of the servant or apprentice is or is likely to be seriously or permanently injured, he shall, on summary conviction, be liable either to pay a penalty not exceeding £20 [\$97.33] or to be imprisoned for a term not exceeding six months, with or without hard labor.

Every person who, with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority, (1) uses violence to or intimidates such other person or his wife or children, or injures his property; or (2) persistently follows such other person about from place to place; or (3) hides any tools, clothes, or other property owned or used by such other person, or deprives him of or hinders him in the use thereof; or (4) watches or besets the house or other place where such other person resides or works or carries on business or happens to be, or the approach to such a house or place; or (5) follows such other person with two or more other persons in a disorderly manner in or through any street or road, shall, on conviction thereof by a court of summary jurisdiction, or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding £20 [\$97.33] or to be imprisoned for a term not exceeding three months, with or without hard labor.

Attending at or near the house or place where a person resides or works or carries on business or happens to be, or the approach to such house or place, in order merely to obtain or communicate information shall not be deemed a watching or besetting within the meaning of this section.

Where in any act relating to employers or workmen a pecuniary penalty is imposed in respect of any offense under such act, and no power is given to reduce such penalty, the justices or court having jurisdiction in respect of such offense may, if they think it just so to do, impose by way of penalty in respect of such offense any sum not less than one-fourth of the penalty imposed by such act.

Nothing in this act shall apply to seamen or to apprentices to the sea service.

In thus making more definite the statement of the acts that workmen could and could not do in attempting to further their demands, it was deemed necessary that especial safeguards should be taken to prevent workmen employed upon certain public works from breaking their contract in such a way as to subject the public to danger or inconvenience. The law thus contains the following sections in regard to this special subject:

Where a person employed by a municipal authority or by any company or contractor upon whom is imposed by act of Parliament the duty, or who have otherwise assumed the duty of supplying any city, borough, town, or place, or any part thereof, with gas or water, willfully and maliciously breaks a contract of service with that authority or company or contractor, knowing, or having reasonable cause to believe, that the probable consequences of his so doing, either alone or in combination with others, will be to deprive the inhabitants of the city,



borough, town, or place, or part, wholly, or to a great extent, of their supply of gas or water, he shall, on conviction thereof by a court of summary jurisdiction or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding £20 [\$97.33] or to be imprisoned for a term not exceeding three months, with or without hard labor.

Every such municipal authority, company, or contractor as is mentioned in this section shall cause to be posted, at the gas works or waterworks, as the case may be, belonging to such authority or company or contractor a printed copy of this section in some conspicuous place, where the same may be conveniently read by the persons employed, and as often as such copy becomes defaced, obliterated, or destroyed shall cause it to be renewed with all reasonable dispatch.

If any municipal authority or company or contractor make default in complying with the provisions of this section in relation to such notice as aforesaid, they or he shall incur on summary conviction a penalty not exceeding £5 [\$24.33] for every day during which such default continues, and every person who unlawfully injures, defaces, or covers up any notice so posted as aforesaid, in pursuance of this act, shall be liable on summary conviction to a penalty not exceeding 40s. [\$9.73].

#### THE LABOR CONTRACT.

It was only after severe struggles extending over the first three quarters of this century that the idea that the labor contract was one that should be considered much the same as other contracts was accepted. Prior to 1867 the breach of a labor contract by an employee was held to be a criminal offense. In that year was passed the masters and servants act, which practically repealed the laws until then regulating the labor contract, viz, 20 Geo. II, c. 19, passed in 1747; 6 Geo. III, c. 25, passed in 1766, and 4 Geo. IV, c. 34, passed in 1823. The most important feature of this act, that making the breach of the labor contract a civil instead of a criminal matter, has already been mentioned.

The law of 1867, however, was but a very inadequate measure of reform. After an elaborate inquiry by a royal commission, Sir Richard Cross, the home secretary, in 1875 secured its repeal, and in its place had enacted two acts, which to-day constitute the law regulating the relations between employers and employees. These two acts deal respectively with the criminal and civil aspects of the question. The first relates to conspiracies and offenses against persons and property, and is considered in the section relating to the right of association and trade unions. It is with the second only of these two acts that we are here concerned.

This act (38 and 39 Vict., c. 90) is entitled "An act to enlarge the powers of the county courts in respect of disputes between employers and workmen, and to give other courts a limited civil jurisdiction in respect of such disputes." It is more usually known, however, as the "employers and workmen act, 1875." The change in the short title of this act from that of those which it replaced, which were known as



“masters and servants acts,” is often referred to as indicating the change of attitude that Parliament adopted in regard to this matter. The labor contract was no longer considered as one between a master and a servant, but as one between free and independent persons.

The character of this act is shown by its full title, which has been given. It is devoted chiefly to setting forth the manner in which differences arising out of the labor contract shall be settled. In the following paragraphs are reproduced the more important provisions of the act, the omitted portions being chiefly those relating to the application of the act to Scotland and Ireland, and details of procedure:

*Jurisdiction—Jurisdiction of County Court.*—In any proceeding before a county court in relation to any dispute between an employer and a workman arising out of or incidental to their relation as such (which dispute is hereinafter referred to as a dispute under this act), the court may, in addition to any jurisdiction it might have exercised if this act had not passed, exercise all or any of the following powers; that is to say—

1. It may adjust and set off the one against the other all such claims on the part either of the employer or of the workman arising out of or incidental to the relation between them, as the court may find to be subsisting, whether such claims are liquidated or unliquidated, and are for wages, damages, or otherwise; and,

2. If, having regard to all the circumstances of the case, it thinks it just to do so, it may rescind any contract between the employer and the workman upon such terms as to the apportionment by wages or other sums due thereunder, and as to the payment of wages or damages, or other sums due, as it thinks just; and,

3. Where the court might otherwise award damages for any breach of contract it may, if the defendant be willing to give security to the satisfaction of the court for the performance by him of so much of his contract as remains unperformed, with the consent of the plaintiff, accept such security and order performance of the contract accordingly, in place either of the whole of the damages which would otherwise have been awarded, or some part of such damages.

The security shall be an undertaking by the defendant and one or more surety or sureties that the defendant will perform his contract, subject on nonperformance to the payment of a sum to be specified in the undertaking.

Any sum paid by a surety on behalf of a defendant in respect of a security under this act, together with all costs incurred by such surety in respect of such security, shall be deemed to be a debt due to him from the defendant; and where such security has been given in or under the direction of a court of summary jurisdiction, that court may order payment to the surety of the sum which has so become due to him from the defendant.

*Court of Summary Jurisdiction.*—A dispute under this act between an employer and a workman may be heard and determined by a court of summary jurisdiction, and such court, for the purposes of this act, shall be deemed to be a court of civil jurisdiction, and in a proceeding in relation to any such dispute the court may order payment of any sum which it may find to be due as wages, or damages, or otherwise, and may exercise all or any of the powers by this act conferred on a county court: *Provided*, That in any proceeding in relation to any such dispute the court of summary jurisdiction (1) shall not exercise any



jurisdiction where the amount claimed exceeds £10 [\$48.67], and (2) shall not make an order for the payment of any sum exceeding £10 [\$48.67], exclusive of the costs incurred in the case, and (3) shall not require security to an amount exceeding £10 [\$48.67] from any defendant or his surety or sureties.

Any dispute between an apprentice to whom this act applies and his master, arising out of or incidental to their relation as such (which dispute is hereinafter referred to as a dispute under this act), may be heard and determined by a court of summary jurisdiction.

In a proceeding before a court of summary jurisdiction in relation to a dispute under this act between a master and an apprentice, the court shall have the same powers as if the dispute were between an employer and a workman and the master were the employer and the apprentice the workman and the instrument of apprenticeship a contract between an employer and a workman, and shall also have the following powers: (1) It may make an order directing the apprentice to perform his duties under the apprenticeship; and (2) if it rescinds the instrument of apprenticeship it may, if it thinks it just so to do, order the whole or any part of the premium paid on the binding of the apprentice to be repaid.

When an order is made directing an apprentice to perform his duties under the apprenticeship, the court may, from time to time, if satisfied after the expiration of not less than one month from the date of the order that the apprentice has failed to comply therewith, order him to be imprisoned for a period not exceeding fourteen days.

In a proceeding before a court of summary jurisdiction in relation to a dispute under this act between a master and an apprentice, if there is any person liable, under the instrument of apprenticeship, for the good conduct of the apprentice, that person may, if the court so direct, be summoned in like manner as if he were the defendant in such proceeding to attend on the hearing of the proceeding, and the court may, in addition to or in substitution for any order which the court is authorized to make against the apprentice, order the person so summoned to pay damages for any breach of the contract of apprenticeship to an amount not exceeding the limit (if any) to which he is liable under the instrument of apprenticeship.

The court may, if the person so summoned, or any other person, is willing to give security to the satisfaction of the court for the performance by the apprentice of his contract of apprenticeship, accept such security instead of or in mitigation of any punishment which it is authorized to inflict upon the apprentice.

*Definitions and miscellaneous.*—In this act the expression “workman” does not include a domestic or menial servant, but, save as aforesaid, means any person who, being a laborer, servant in husbandry, journeyman, artificer, handicraftsman, miner, or otherwise engaged in manual labor, whether under the age of 21 years or above that age, has entered into or works under a contract with an employer, whether the contract be made before or after the passing of this act, be express or implied, oral or in writing, and be a contract of service or a contract personally to execute any work or labor. \* \* \*

In the case of a child, young person, or woman subject to the provisions of the factory acts [1833 to 1874], (a) any forfeiture on the ground of absence or leaving work shall not be deducted from or set-off against a claim for wages or other sum due for work done before such absence

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*a* Now factory and workshops act, 1878.



or leaving work, except to the amount of the damage, if any, which the employer may have sustained by reason of such absence or leaving work.

*Application.*—This act, in so far as it relates to apprentices, shall apply only to an apprentice to the business of a workman as defined by this act upon whose binding either no premium is paid, or the premium, if any, paid does not exceed £25 [\$121.66], and to an apprentice bound under the provisions of the acts relating to the relief of the poor.

*Saving clause.*—Nothing in this act shall take away or abridge any local or special jurisdiction touching apprentices. (a)

### HISTORY OF FACTORY LEGISLATION.

Factory laws and allied acts, it will be remembered, constitute the second of the two groups into which, for purposes of this study, British labor legislation has been divided. In this field Great Britain was the pioneer among nations, her first act (42 Geo. III, c. 73), passed in 1802, and known as the elder Sir Robert Peel's act, being the first factory act, properly speaking, enacted by any European nation. This act was entitled "An act for the preservation of the health and morals of apprentices and others employed in cotton and other mills and cotton and other factories," and contained provisions regarding the ventilation of factories, the whitewashing of walls, the clothing and sleeping accommodations of apprentices, besides various other provisions. The hours of labor of apprentices were limited to 12 per day.

The next step for the protection of factory labor was not made until 1819. In that year was passed an act (59 Geo. III, c. 66), which, though it applied only to cotton mills, for the first time limited the age at which children might be permitted to work in factories. Such employment was prohibited to children under 9 years of age, and the hours of labor of those under 16 years of age were limited to 12 per day, exclusive of time for meals.

Subsequent factory acts were passed in 1820, 1825, 1829, 1831, and 1833. The act passed in 1833 (3 and 4 Wm. IV, c. 103), known as Lord Althorp's act, not only took the place of previous enactments, but also introduced a number of important changes. In this act was made, for the first time, the distinction between "children" and "young persons," which has since been maintained. The attendance of children at school was made obligatory, and effective measures for the enforcement of this provision were made. The "half-time" principle was introduced by the provision limiting the hours of labor of children to 9 per day and requiring the children to spend at least 2 hours per day in school. The most important provision of the act, however, was that whereby the law was made to apply not merely to cotton and woolen mills, as was the case with former acts, but to "any cotton, woolen, worsted, hemp, flax, tow, linen, or silk mill or factory wherein

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a By 43 and 44 Vict., c. 16. the limitation as to seamen, etc., was repealed, so that this section now applies to seamen and apprentices to the sea service.



steam or water or any other mechanical power is, or shall be, used to propel or work the machinery." Finally, provision was made for the appointment of four factory inspectors to enforce the observance of the act.

The first general factory act to follow that of 1833 was the consolidating act which Sir Robert Peel carried through in 1844 (7 and 8 Vict., c. 15). Of this act Mr. Cooke Taylor, the superintending inspector of factories and workshops, says: "These two statutes (1833 and 1844) constitute together the foundation of the laws at present in force, not alone for the special classes of factories to which they had then exclusive reference, but for all others. \* \* \* With the enactment of this statute (1844) the first stage in the progress of English factory legislation may be said to have been accomplished; that stage, namely, which brought the textile industries under some sort of efficient control."<sup>a</sup>

By this act the hours of labor of children of 8 (formerly 9) years of age and up to 13 were reduced to 6½ per day, and 3 hours' daily attendance at school were required for 5 days of each week. In some cases alternate days of 10 hours' labor and 5 hours' schooling were permitted. Female operatives over 18 years of age (thereafter called women) were for the first time put upon the same footing as "young persons." The system of factory inspection was made more efficient by the creation of a department of factory inspection, with a central office in London.

The two succeeding decades were not marked by legislation of general importance. As Mr. Taylor expresses it, the energies of factory reformers were chiefly expended in securing the advantages already gained, and in perfecting the system of inspection now fully introduced. A number of acts, however, were passed bringing particular industries under the operation of the factory laws, and introducing minor modifications. The only act that need be specifically mentioned is the famous 10 hours act (10 and 11 Vict., c. 29), "An act to limit the hours of labor of young persons and females in factories," passed in 1847.

The year 1864 marks the beginning of a new period. The acts that have been enumerated, and others relating to special industries, were regarded more as affiliated with the factory acts than as constituting an integral part of them. In 1864, however, was passed an act (27 and 28 Vict., c. 48), in which this principle was definitely abandoned, and thenceforth practically all kinds of industrial work were considered as subject to the principle of factory legislation. This act brought under the factory act not only a large number of distinctly nontextile industries but certain employments as well.

In 1867 a still further advance was made through the enactment of two very important factory acts, the factory acts extension act (30 and 31 Vict., c. 103), and the workshop regulation act (30 and 31 Vict., c. 106). The first act completed the extension of the principle of legal regula-

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<sup>a</sup> Article, Factory Acts, Palgrave's Dictionary of Political Economy.



tion by defining the word "factory" as regulated by the act, so as to comprehend not only the specified industries, but any place where manufacturing was carried on and where 50 or more persons were employed. The purpose of the second act was to extend this legal regulation of labor to smaller places or those where less than 50 persons were employed. A workshop was defined to be any place, not a factory or bakehouse, where any handicraft was carried on in which any child, young person, or woman was employed, and to which or over which the employer of the persons working therein had the right of access or control. An important difference between the factory and workshop acts was that the enforcement of the latter was intrusted to the local authorities. As a result this act was largely disregarded, and a few years later, in 1871, its enforcement was transferred to the inspectors of factories.

Following these two laws came a number of acts relating chiefly to the regulation of work in particular industries. The final step in the evolution of a factory code was taken in 1878, by the enactment of the factory and workshop act (41 Vict., c. 16) of that year. This act not only consolidated provisions scattered through a large number of laws, but, as is shown by its title, brought together the two branches of factory and workshop regulation which had hitherto been kept separate. But comparatively few changes in existing legislation were made. The purpose of the act was distinctly one of codification. This law remains the foundation of the system of factory regulation as it exists to-day. In the years that have elapsed since its enactment it has been added to, but in its main provisions, and wholly as regards its principle, the law is unchanged. The subsequent legislation can be briefly noted.

In 1881 the alkali works acts were consolidated and amended by 44 and 45 Vict., c. 37. In 1883 white-lead factories and bakehouses were further dealt with (46 and 47 Vict., c. 53). In 1884 provision for summary proceedings under the factory acts was made by 47 and 48 Vict., c. 43. In 1888 holidays in Scotland were regulated by 51 and 52 Vict., c. 22. In 1889 the condition of cotton mills as regards moisture and temperature were regulated by 52 and 53 Vict., c. 62.

In 1891 was passed a law (54 and 55 Vict., c. 75) which partakes more of the nature of a general factory act, and as such introduced important modifications in the system of factory regulation as established by the act of 1878. Among the changes made by it may be mentioned the provisions concerning the sanitation of working places and the authority of inspectors and local officials in this respect, precautions to be taken against fire, regulations as to dangerous and unhealthy features of employment, the hours of labor of women, holidays, the employment of children, prevention of accidents, etc. In 1892 the employment of young persons in shops or stores was regulated by 55 and 56 Vict., c. 62. This law was amended in the following year



by 56 and 57 Vict., c. 67. In 1895 another general factory and workshop act (58 and 59 Vict., c. 37) was passed which made a number of important changes in existing legislation. These related to overcrowding, precautions to be taken against accidents, the regulation of the conditions under which wearing apparel could be made (the sweating system), the reduction of overtime employment of women and young persons, etc. The act also contained special regulations concerning labor in laundries, on docks, and in tenement houses.

Of subsequent legislation the only acts that need be mentioned are the cotton cloth factories act of 1897 (60 and 61 Vict., c. 58), giving to the secretary of state the power to issue orders for the purpose of giving effect to such of the recommendations of the committee appointed to inquire into the working of the cotton cloth factories act, 1889, as he may deem necessary; and the act of 1897 (60 and 61 Vict., c. 60) for the prevention of accidents by chaff-cutting machines.

#### SCOPE AND GENERAL CHARACTER OF FACTORY LAWS.

The result of nearly a century's legislation in relation to industrial employment has been the development of a body of laws specifying in great detail the conditions that must be observed in the prosecution of such employment. The laws as they now stand are exceedingly complex, and it will be necessary to make a preliminary statement of their general character and scope in order to make clear the specific conditions and restrictions that will be subsequently enumerated. Briefly, the laws apply only to factories and workshops, strictly speaking, or where the operations of manufacturing or altering articles, or construction work is carried on. The only possible exceptions to this are bakehouses, laundries, quarrying and pit work not coming under the mining laws, and docks and building operations, the regulation of which is provided for in these laws. Agriculture, mining, transportation, and other special categories of industrial employment are therefore not included.

For the purposes of regulation the factory acts make a primary division of establishments coming under their provisions into factories and workshops. Factories are again divided into the two classes of textile and nontextile factories, and workshops are divided into ordinary workshops and the three special classes of domestic workshops, workshops for adults only, and workshops for adult males only, which for certain purposes are distinguished from ordinary workshops. Bakehouses, laundries, and other special industries are considered as falling in one of the foregoing classes according to circumstances. It is quite necessary that this division into classes be understood, as the regulations concerning employment and the conduct of work in each are different.

The term "textile factory" is described to mean any premises wherein or within the close or curtilage of which steam, water, or other



mechanical power is used to move or work any machinery employed in preparing, manufacturing, or finishing, or in any process incident to the manufacture of cotton, wool, hair, silk, flax, hemp, jute, tow, china grass, cocoanut fiber, or other like material, either separately or mixed together, or mixed with any other material, or any fabric made thereof; provided that print works, bleaching and dyeing works, lace warehouses, paper mills, flax scutch mills, rope works, and hat works shall not be deemed to be "textile factories."

The term "nontextile factory" means (1) any works, warehouses, furnaces, mills, foundries, or places used as print works, bleaching and dyeing works, earthenware works, lucifer-match works, percussion-cap works, cartridge works, paper-staining works, fustian-cutting works, blast furnaces, copper mills, iron mills, foundries, metal and india rubber works, paper mills, glass works, tobacco factories, letterpress printing works, bookbinding works, and flax scutch works, whether mechanical power is used in them or not; (2) any places or premises used as hat works, rope works, bakehouses, lace warehouses, shipbuilding yards, quarries, and pit banks wherein or within the close or curtilage or precincts of which steam, water, or other mechanical power is used in aid of the manufacturing process carried on there, and (3) any premises wherein or within the close or curtilage or precincts of which any manual labor is exercised by way of trade or for purposes of gain in or incidental to the making of any article, or part of any article, or the altering, repairing, ornamenting, or finishing of any article, or adapting any article for sale, and wherein or within the close or curtilage or precincts of which steam, water, or other mechanical power is used in aid of the manufacturing process carried on there.

By the term "workshop" is meant any premises or places mentioned under (2) in the preceding paragraph, which are not factories as above defined, and also any premises, room, or place, which is not a factory, in or within the close or curtilage or precincts of which any manual labor is exercised by way of trade or for purposes of gain in or incidental to the making of any article or of part of any article, or the altering, repairing, ornamenting, or finishing of any article, and to which or over which premises, room, or place the employer of the persons working therein has the right of access or control.

Of the three special classes of workshops the last two are sufficiently described by their titles. The first, domestic workshops, means private houses, places, or rooms where no power is used, and in which the only persons employed are members of the same family dwelling there. All three of these special classes of workshops, as will be seen later, are exempt from many of the provisions of the factory acts regulating labor in ordinary workshops. The third class, workshops employing only adult males, it should be said are expressly excluded from the operation of the acts except so far as they refer incidentally to their sanitary condition. In this respect they are subject to the same con-



ditions as ordinary workshops, since the public health acts make no distinction between the various classes of workshops. A part of a factory or workshop may be taken to be a separate factory or workshop; and a room used solely for sleeping purposes is not deemed to form a part of the factory or workshop.

To recapitulate, the distinction between factories and workshops is, generally, that in the former machinery operated by steam, water, or other mechanical power is used, while in the latter it is not, though there is a list of 19 classes of works which are defined as factories whether mechanical power is used in them or not. The chief distinction between textile and nontextile factories relates to the hours of labor of children, young persons, and women, which are slightly shorter in the first class, to overtime work, etc. Workshops, generally, are subject to the same regulations as nontextile factories, with regard to hours of labor. In regard to their sanitary condition, however, the important distinction is made that they are subject to the control of the local authorities, while factories are under the supervision of the factory inspectors.

Turning now to the character of the regulations provided, the provisions of the acts may be divided into two distinct groups: (1) Those which relate to conditions of employment and affect only children, young persons, and women; and (2) those which relate to the sanitary conditions of factories and workshops and the safety of the work people, such as sanitation, ventilation, and temperature, the guarding of dangerous machinery, the provision for means of egress in case of fire, etc., which affect all employees. Finally, there are provisions creating an inspection department, with an adequate corps of inspectors, whose duties are to inspect factories and workshops and see that the laws are enforced, and provisions specifying the penalties for infractions of the law, and the manner of their imposition and enforcement.

#### PROTECTION OF HEALTH OF EMPLOYEES.

As has been pointed out, the act of 1891 made an important distinction between factories and workshops in regard to the manner of enforcing the provisions concerning their sanitation. While factories for this purpose remained under the authority of the factory inspectors, workshops were placed under the public health acts, so that the controlling authority in their case is now the sanitary officers. For this reason it is necessary to consider separately the provisions concerning factories and workshops.

The sanitary regulations regarding factories fall under four principal heads, viz, cleanliness, overcrowding, ventilation, and temperature.

The regulations regarding cleanliness provide that a factory must be kept in a cleanly state and free from effluvia arising from any drain, water-closet, earth closet, privy, urinal, or other nuisance. For the purpose of securing cleanliness, all inside walls and the ceilings or tops of



the rooms of a factory, and all passages and staircases of a factory, if they have not been painted with oil or varnish once at least within 7 years, shall be lime washed once at least every 14 months; and if they have been so oiled or varnished, shall be washed with hot water and soap once at least every 14 months. Where these provisions regarding lime washing and painting appear to be unnecessary or inapplicable the secretary of state may grant exemptions to such classes of factories by special order.

Whenever it appears to an inspector of factories that there is neglect or default in relation to any drain, water-closet, earth closet, privy, ash pit, water supply, nuisance, or other matter in a factory, and is punishable under the law relating to public health but is not under the factory acts, it is his duty to notify in writing the sanitary authority of the district, and it is then the duty of that officer to take steps to enforce the law. It is also the duty of the sanitary authority to inform the inspector of factories of what action he may have taken in the matter. If the former neglects for a month to take action, the inspector may take such proceedings as the sanitary authority might have taken, and recover all the expense of a successful proceeding, that are not recovered from any other person, from the sanitary authority.

In every place where suitable sanitary conveniences do not already exist in virtue of the public health acts amendment act, 1890, every factory or workshop shall be provided with sufficient and suitable accommodations in the way of sanitary conveniences, having regard to the number of persons employed in or in attendance at the factory or workshop, and also where persons of both sexes are employed, with proper separate accommodations for each sex.

In every factory or workshop where lead, arsenic, or any other poisonous substance is used, suitable washing conveniences shall be provided for the use of persons employed in the departments where such substances are used.

In respect to overcrowding, it is provided that a factory must not be so overcrowded while work is carried on therein as to be dangerous or injurious to the health of the persons employed therein. A factory is deemed to be overcrowded if the number of cubic feet of space in any room bears to the number of persons employed therein a proportion less than 250 or during any period of overtime 400 cubic feet of space to every person. The secretary of state may modify this proportion for any period during which artificial light, other than electric light, is employed for illuminating purposes, and may, as regards any particular manufacturing process or handicraft, substitute for the above figures any higher figures. The employer must affix in the entrance, and in any other place required by the inspector, a notice showing the number of persons who may be employed in each room by virtue of these acts.

The regulations in regard to ventilation provide that a factory must



be ventilated in such a manner as to render harmless so far as practicable all the gases, vapors, dust, or other impurities generated in the course of the manufacturing process or handicraft carried on therein that may be injurious to health. Wherever it is necessary the inspector can order the provision of a fan or other mechanical device to protect workingmen against noxious gases, vapors, or other impurities generated during the process of manufacture.

Regarding temperature, the acts provide that in every factory and workshop adequate measures shall be taken for securing and maintaining a reasonable temperature in each room in which any person is employed. The cotton cloth factories act, 1889, regulates with great care the degree of temperature and humidity that shall be maintained in cotton cloth factories. The provisions of this act were afterwards extended by the factory act of 1895 to all textile factories in which atmospheric humidity is artificially produced by steaming or other mechanical appliances and not otherwise regulated by special rules according to the act of 1891.

By the factory act, 1891, workshops were excluded from the operation of the provisions of the factory acts regarding sanitation and subjected to those contained in the public health acts. The latter, however, are supplemented by the following provisions of the factory act of 1891: (1) Every workshop or work place shall be kept free from effluvia arising from drains, water-closets, earth closets, privies, urinals, or other nuisances, and unless so kept shall be deemed to be a nuisance, liable to be dealt with under the law relating to public health. (2) When, on the certificate of a medical officer of health or inspector of nuisances, it appears to any sanitary authority that lime washing, cleaning, or purifying of any such workshop, or of any part thereof, is necessary for the health of the persons employed therein, the sanitary authority shall give notice in writing to the owner or occupiers of the workshop to lime wash, cleanse, or purify the same. (3) Failure to comply with these orders may make the occupier liable to a fine of 10s. (\$2.43) for each day during the continuance of the default, and the sanitary authorities may have the work done and recover from the occupier.

The foregoing provisions, together with the public health acts, make the regulations regarding workshops practically the same as those regarding factories, except that mechanical means of ventilation are never required in a workshop, and that the regulations regarding painting and lime washing are different. It will be noted that the enforcement of these sanitary regulations is in general intrusted to the public health authorities. If, however, the secretary of state is satisfied that the law relating to cleanliness, ventilation, overcrowding, lime washing, etc., is not observed in any workshop or laundry, he can order an inspector of factories to take such steps as are necessary to secure its enforcement. An inspector thus authorized then has the same powers with respect to workshops or laundries as he has with respect to factories, and can take the same steps for compelling compliance with his



orders as might be taken by the sanitary authority of the district. He is also entitled to recover from the sanitary authority all the expenses incurred by him in a successful proceeding which he does not recover from any other person.

The duty imposed upon inspectors of factories to notify the sanitary authorities when there has been an infraction of the law regarding the sanitation of factories which is punishable under the public health acts, but not under the factory acts, as described above (page 793), also applies to workshops conducted on the system of not employing children, young persons, or women, and to laundries.

#### PREVENTION OF ACCIDENTS.

The provisions of the factory acts having for their purpose the prevention of accidents may be considered under the following five heads, viz, the fencing of machinery, the cleaning of machinery while in motion, the use of self-acting machines, the provision of fire escapes, and special rules regarding dangerous buildings or machinery. In addition to these, those occupations which present especial danger of accidents to employees are subjected to special regulations, which will be considered in another section.

Following are the provisions of the factory acts regarding the fencing of machinery:

1. Every hoist or teagle, and every fly wheel directly connected with steam, water, or other mechanical power, whether in the engine house or not, and every part of any water wheel or engine worked by such power shall be securely fenced.

2. Every wheel race not otherwise secured shall be securely fenced close to the edge of the wheel race.

3. All dangerous parts of the machinery and every part of the mill gearing must be either securely fenced or be in such position or of such construction as to be equally safe to every person at work in the factory as if it were securely fenced.

4. All fencing must be constantly maintained in an efficient state while the parts required to be fenced are in motion or in use, except when under repair or are necessarily exposed for the purpose of cleaning or lubricating.

The regulations regarding the cleaning of machinery while in motion are:

1. A child shall not be allowed to clean any part of the machinery in a factory while the same is in motion by the aid of steam, water, or other mechanical power.

This provision also applies to young persons, so far as the dangerous parts of machinery are concerned. It is presumed, until the contrary is proved, that those parts of machinery are dangerous that are so notified by the inspector to the occupier.

2. A young person or woman shall not be allowed to clean such part



of the machinery of a factory as is mill gearing (that is, the means by which power is transmitted as distinguished from the manufacturing operations) while the same is in motion for the purpose of propelling any part of the manufacturing machinery.

In the use of self-acting machines the provisions are:

1. A child, young person, or woman shall not be allowed to work between the fixed and traversing part of any self-acting machine while the machine is in motion by the action of steam, water, or other mechanical power.

2. No person employed in a factory shall be allowed to be in the space between the fixed and the traversing portions of a self-acting machine unless the machine is stopped with the traversing portion on the outward run, but for the purpose of this provision the space in front of a self-acting machine shall not be included in the space aforesaid.

3. In a factory erected after the commencement of the act of July 6, 1895, the traversing carriage of any self-acting machine shall not be allowed to run out within a distance of 18 inches from any fixed structure not being part of the machine, if the space over which it so runs out is a space over which any person is liable to pass, whether in the course of his employment or otherwise.

In the provisions of the factory acts requiring precautions to be taken against fire in factories and workshops, and the provision of means of escape, a distinction is made between old and new buildings. Following are the provisions:

1. Every factory erected since January 1, 1892, and every workshop erected since January 1, 1896, in which more than 40 persons are employed, must be furnished with a certificate from the sanitary authority of the district in which the factory or workshop is situate, or in London from the county council, that the building is provided on the stories above the ground floor with such means of escape in case of fire for the persons employed therein as can reasonably be required under the circumstances of each case; and it shall be the duty of the sanitary authority, or in London the county council, to examine every such factory and workshop, and, on being satisfied that the building is so provided, to give such a certificate.

2. With respect to every factory erected prior to 1892 and every workshop erected prior to 1896, and in which more than 40 persons are employed, it shall be the duty of the sanitary authority of every district, or of the county council in London, to ascertain whether all such factories and workshops within their district are provided with means of escape in case of fire as above described, and, in case of any factory or workshop which is not so provided, to serve on the owner a notice in writing specifying the measures necessary for providing such means of escape, and directing him to carry out the same before a specified date; and thereupon such owner shall, notwithstanding any agreement with the occupier, have power to take such steps as are necessary for



complying with the requirements, and unless they are complied with the owner shall be liable to a fine not exceeding £1 (\$4.87) for every day that such noncompliance continues. In case of a difference of opinion between the owner of a factory and the sanitary authority, the difference shall, on the application of either party, be referred to arbitration, this arbitration to be had in conformity with the scheme of arbitration provided in the first schedule of the factory act of 1891, with the exception that the parties to the arbitration are the sanitary authority on the one hand and the owner on the other, and that the award, which will be either to discharge, amend, or confirm the notice, will be binding on the parties. If the owner alleges that the occupier ought to bear or contribute to the expenses of complying with the requirement, he may apply to the county court having jurisdiction where the factory is situated, and thereupon the county court, after hearing the occupier, may make such order as appears to it to be just and equitable.

If the sanitary authority, or county council in London, fail to perform their duty with regard to requiring proper means of escape from fire the factory inspector may give notice to them, and in case they fail to take the proper steps within a month the inspector may take the proceedings which they might have taken and recover the expense from them. The sanitary authority, or county council in London, are required to inform the inspector of any proceedings taken by them in pursuance of the inspector's notice.

3. A court of summary jurisdiction may, on complaint of an inspector, and on being satisfied that the provision of movable fire escapes is necessary for the safety of any of the persons employed in a factory or workshop, by order require the occupier to provide and maintain such movable fire escapes in sufficient number for that purpose.

4. While any person employed in a factory or workshop is within the factory or workshop for the purpose of employment or meals, the doors of the factory or workshop and of any room therein in which any such person is shall not be locked or bolted or fastened in such a manner that they can not be easily and immediately opened from the inside.

5. In every factory or workshop, the construction of which was commenced after January 1, 1896, the doors of each room in which more than 10 persons are employed shall, except in the case of sliding doors, be constructed so as to open outward.

The regulations concerning the use of dangerous buildings or machinery provide that whenever an inspector believes that any place used as a factory or workshop is in such a condition that any manufacturing process or handicraft carried on therein can not be so carried on without danger to health or to life or limb, or that any machine used in a factory or workshop is in such a condition that it can not be used without danger to life or limb, he can make complaint to a court of summary



jurisdiction, and this court can, upon being satisfied of the justness of the complaint, prohibit the use of the place or machine until such works have been executed as, in the opinion of the court, are necessary to remove the danger. A fine of not exceeding 40s. (\$9.73) a day may be imposed for failure to comply with this order.

When a complaint has been made as above, the court or a justice may, on application *ex parte* by the inspector, and on receiving evidence that the use of any machine involves imminent danger to life, make an interim order prohibiting, either absolutely or subject to conditions, the use of the machine until the earliest opportunity for hearing and determining the complaint.

#### DANGEROUS OCCUPATIONS.

In industrial work there are certain occupations, the pursuit of which is accompanied by such unusual dangers to life or health, that the general regulations of the factory and workshop acts are not sufficient to protect the employees from injury. In these cases, therefore, additional rules and regulations have been provided.

The secretary of state thus has the general power to certify to the chief inspector of factories any case where it is his opinion that any machinery or process or particular description of manual labor used in a factory or workshop (other than a domestic workshop, but including workshops conducted on the system of not employing any child, young person, or woman) is dangerous to life or limb, either generally or in the case of women, children, or any other class of persons, or that the provisions for the admission of fresh air are not sufficient, or that the quantity of dust generated or inhaled is dangerous or injurious to health. Upon receipt of such certification the chief inspector must serve on the occupier of the factory or workshop a notice in writing, either proposing such special rules or requiring the adoption of such special measures as appear to the chief inspector to be reasonably practicable and to meet the necessities of the case. Rules and requirements may also be made prohibiting the employment of, or limiting the hours of labor for, all or any class of persons engaged in dangerous occupations the same way as in the case of dangerous machinery or processes of manufacture. If such rules or requirements, however, relate to adult workers, they must be laid on the table of both Houses of Parliament for 40 days before going into operation.

Unless the occupier, within 21 days after the receipt of such a notice, serves on the chief inspector a notice in writing that he objects to the rules or requirements they shall be considered as established and must be observed. If the notice of objection suggests any modification of the rules or requirements the secretary of state shall consider them and may assent thereto, in which case they shall enter into force as modified. In case the secretary does not assent to such suggested modification, the matter must be referred to arbitration, as provided by the factory act of 1891, and the decision obtained in this way is final.



In the arbitration proceedings the workmen, or any class of them, may be represented, and their representative may appear in person, or by counsel, solicitor, or agent. When the workmen avail themselves of this privilege they may be required to furnish security for the extra cost that this participation may entail, and their representative will be liable for costs as if he were a party to the arbitration.

Where special rules have been established for any factory or workshop, as above described, any person failing to comply with any obligation placed upon him by these rules is liable on summary conviction to a fine not exceeding £2 (\$9.73); and the occupier when at fault shall be liable on summary conviction to a fine of not more than £10 (\$48.67), unless he can prove that he had taken all reasonable means for preventing the contravention of the rules. When special rules have been established for any factory or workshop their amendment or replacement by other rules can be proposed by either the secretary of state or the occupier, in which case the provisions of the law apply to such new or amended rules the same as to the original rules.

Printed copies, in legible characters, of all special rules in force must be kept conspicuously posted in the factories and workshops, where they can be conveniently read by the persons employed, and a printed copy must be given by the occupier to any person affected by them upon his application. Noncompliance with this provision renders the occupier liable to a fine not exceeding £10 (\$48.67). A fine of £5 (\$24.33) is provided for any person tearing down or defacing any copies of special rules when posted.

In accordance with the foregoing provisions, the secretary of state has established special regulations for a considerable number of manufacturing industries, among which may be mentioned the manufacture of white lead, paints and colors, lucifer matches, explosives, lead smelting, chemical works, the extraction of arsenic, etc.

The conditions surrounding the manufacture of white lead are so unusually dangerous to health, that it was deemed necessary to enact special regulations applicable to this industry. The act of 1883, therefore, declared that no place wherein white lead was manufactured could be operated after December 31, 1883, unless it was provided with a certificate from an inspector of factories that it had complied with all the conditions set forth in the act. It is unnecessary to specify these conditions, as they were afterwards included in and supplemented by rules issued by the secretary of state in accordance with the power given to him by the act of 1891 to make rules for the regulation of any class of dangerous occupations. The certificate can not be granted by an inspector until he has made an examination of the factory, and it can be revoked at any time if the inspector finds that the factory is not kept in conformity with the rules promulgated or the provisions of law. The penalty for operating a white lead factory in contravention of the law is a fine not exceeding £2 (\$9.73) for each day during such infraction.



**EMPLOYMENT OF WOMEN, YOUNG PERSONS, AND CHILDREN.**

The most important feature of the theory upon which the factory acts are framed is that, as regards the conditions of employment, adult male labor is subjected to no regulations except in the case of dangerous occupations, for which special rules can be made under the act of 1891. This class, it is held, is competent to look after its own welfare. With women, young persons, and children, however, the conditions are quite different. Their economic dependence and natural weakness is such that the intervention of the state on their behalf is held to be fully justified. It is important, therefore, to bear in mind that the numerous regulations concerning hours of labor and times of employment as given in the sections following in no case relate to adult male labor, but only to women and minors.

Throughout the laws relating to factories and workshops the division of the protected class into children, young persons, and women is always maintained, and the conditions of the employment of each are usually different. A "child" is a person under the age of 14 years. As the employment of children under 11 years of age in a factory or workshop is prohibited, "child" as used in the acts refers to a person 11 years of age but under 14 years of age. A "young person" is one 14 years of age and under 18 years, and a "woman" is a female 18 years of age or over.

As regards these three classes the factory acts specify in great detail the conditions of their employment, their hours of labor, intervals of rest or meal hours, their employment at night and on Sundays and holidays, overtime work, education, etc. These conditions vary more or less for each of the different classes of persons and also for each of the different categories of factories and workshops. In the paragraphs following the attempt is made to show in a methodical way these conditions, the exact language of the acts being followed wherever practicable.

**RESTRICTIONS ON EMPLOYMENT (a).—**No child under 11 years of age shall be employed in a factory or workshop. In a factory no child or young person under the age of 16 years shall be employed for more than 7, or if the certifying surgeon resides more than 3 miles from the factory 13, workdays, unless the occupier of the factory has obtained a certificate that the child is fit for employment. This certificate must

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*a* In addition to the restrictions given, the prevention of cruelty to, and protection of, children act, 1889 (52 and 53 Vict., c. 44), makes it an offense punishable by a fine of not more than £25 (\$121.66) or imprisonment for not more than three months for any person to cause or procure "any child under the age of 10 years to be at any time in any street, or in any premises licensed for the sale of intoxicating liquors, or in premises licensed according to law for public entertainments, or in any circus or other place of public amusement to which the public are admitted by payment, for the purpose of singing, playing, or performing for profit or offering anything for sale." Exemption from this provision, however, can be granted in cases where the authorities are satisfied that the child will suffer no harm.



be furnished by the certifying surgeon of the district, the appointment of whom is provided for by the act, and must show that the surgeon is satisfied, by the production of a certificate of birth or other sufficient evidence, that the person named in the certificate is of the age specified therein and has been personally examined by him and found not to be incapacitated by disease or bodily infirmity for working daily for the time allowed by law in the factory named in the certificate. Where an inspector is of the opinion that a child or young person under the age of 16 years is by disease or bodily infirmity incapacitated for working daily for the time allowed by the law in the factory or workshop in which the person is employed, he may serve a written notice thereof on the employer, requiring the discontinuance of the employment of such person within from 1 to 7 days after the service of the notice, and the person can not thereafter be employed until another certificate from the certifying surgeon of the district has been obtained, showing that the person is fit for work.

It will be noticed that a certificate of fitness is required as a condition precedent to employment only in the case of factories. The power of inspectors to require the employment of such young persons under the age of 16 years as appear to be unfit to work to be discontinued until they can secure a certificate of fitness from the certifying surgeon, applies, however, to both factories and workshops. The law, therefore, permits occupiers of the latter voluntarily to obtain certificates of fitness from all his employees under 16 years of age, the same as if his establishment were a factory. Furthermore, the law authorizes the secretary of state, whenever he deems it expedient for protecting the health of employees under 16 years of age, to make it obligatory upon occupiers of those workshops to obtain certificates the same as is required in the case of factories.

If in any certificate it is shown that the proof of the age of the child or young person is other than a certificate of birth, and the inspector has cause to believe that the real age is less than appears in the certificate, he can annul the surgeon's certificate. All certificates must be shown to the inspector whenever required. When a child reaches the age of 14 years, and thereby becomes a young person, a fresh certificate must be obtained of his fitness for employment under the new conditions.

In addition to the requirements concerning age and certificates of physical fitness, the employment of children is still further restricted by requirements concerning the education of the candidates for employment. These requirements are contained partly in the elementary education acts and partly in the factory acts.

According to the education acts a child under 13 years of age shall not be employed in a factory, workshop, or elsewhere before he has reached the standard of education fixed by the local by-laws for total or partial exemption from attending school. A child under 13 years of age who has fulfilled these conditions, and a child between 13 and



14 years of age who has not received a certificate of proficiency at a certified efficient school, as described in the succeeding paragraph, and is employed in a factory or workshop under the factory acts, must continue to attend a school of recognized efficiency as follows: (1) If employed according to the morning or afternoon set system, one attendance each workday; (2) if employed on the alternate-day system, on each workday preceding day of employment, two attendances; (3) the attendance must be between the hours of 8 a. m. and 6 p. m., and be such as is defined as an attendance by the secretary of state with the consent of the education department; (4) on Saturdays, holidays, and half holidays attendance at school is not required; (5) unless a child is absent on account of illness, properly certified, or the school is temporarily closed for holidays or other reasons, any deficiency in attendance must be made up in the next succeeding week before the child may be employed.

A child between 13 and 14 years of age may be exempt from the requirement of school attendance as above described if he has obtained a certificate of proficiency or of previous attendance at a "certified efficient school." The standard of proficiency must be in reading, writing, and arithmetic as fixed by the secretary of state with the consent of the education department. The standard of previous attendance is 250 attendances a year for 5 years in not more than two schools in each year, after the scholar has reached the age of 5 years. The regulations for Scotland and Ireland are somewhat, but not materially, different. A child who has received a certificate as above described is deemed to be a "young person" for all purposes of the factory acts.

The obligation of seeing that children employed in factories and workshops attend school, as required by the factory acts, primarily falls upon the parents or guardians, and they are liable to punishment in case of its nonobservance. It is also the duty of the occupier of the factory or workshop in which the children are employed to see that the requirements of the law have been complied with. He must thus on Monday in every week, or on some other day appointed by the inspector, obtain from the teachers of the schools attended by the children certificates respecting the attendance of the children in accordance with the factory acts, and no child shall be employed without a certificate in due form. Further, the school board or other authority who manage the schools attended by the children may apply to the occupier of the factory or workshop for a weekly payment of not over 3d. (6 cents) per child and not over one-twelfth of the child's weekly wages, which sum may be deducted from the wages as a school fee.

The employment of children and young persons is prohibited in any part of a factory or workshop in which there is carried on the process of silvering mirrors by the mercurial process, or the making of white lead. A child or female young person shall not be employed in any part of a factory in which the process of melting or annealing glass is



carried on. A girl under the age of 16 years shall not be employed in a factory or workshop where the making or finishing of brick or tiles, other than ornamental tiles, or the making or finishing of salt is carried on. A child shall not be employed in the part of a factory or workshop in which any dry grinding in the metal trade or the dipping of lucifer matches is carried on. A child, young person, or woman shall not be employed in any part of a factory in which wet-spinning is carried on unless sufficient means be employed and continued for protecting the workers from being wetted, and where hot water is used for preventing the escape of steam into the room occupied by the workers.

An occupier of a factory or workshop shall not knowingly allow a woman to be employed therein within four weeks after she has given birth to a child.

No child shall be employed inside and outside a factory or workshop on the same day in the business of the factory or workshop except during the recognized period of employment. No young person or woman shall be employed outside a factory or workshop except during the recognized period of employment on any day during which the young person or woman is employed in the factory or workshop both before and after the dinner hour.

For the purposes of the above section a person is deemed to be employed outside the factory or workshop on the day on which work is given to him and taken out by him to be done outside. If a young person or woman is employed by the same employer on the same day both in a factory or workshop and in a store, the whole period of employment of that person shall not exceed the number of hours permitted by the factory acts for his or her employment in the factory or workshop.

The secretary of state can, when it is proved to his satisfaction that the customs or exigencies of the trade carried on in any class of factories or workshops, or parts thereof, either generally or situate in any particular locality, require that such trade should be exempted from the operation of these provisions relating to inside and outside employment, grant by order such special exemption as may be necessary.

**HOURS OF LABOR OF CHILDREN IN TEXTILE FACTORIES (a).**—With respect to the hours of employment of children in textile factories the following regulations are provided:

1. Children must be employed either upon the half-day system—that is, in morning or afternoon sets—or on alternate days.

2. The period of employment for a child in a morning set shall, except on Saturday, begin at 6 a. m. or 7 a. m. and end at 1 o'clock in the afternoon, or, if the dinner time begins before 1 o'clock, at the beginning of the dinner time.

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*a* For the purpose of fixing the hours of labor and times allowed for meals for children, young persons, and women, print works and bleaching and dyeing works are considered as if they were textile factories, save that nothing in this provision shall prevent the continuous employment of such persons, without an interval of half an hour for a meal, for the period allowed by the law in the case of nontextile factories.



3. In an afternoon set work shall, except on Saturday, begin at 1 p. m. or at the end of the dinner hour if after 1 p. m. If, however, the dinner hour does not begin before 2 p. m. the afternoon set may begin at noon, in which case the morning set must end at noon. The afternoon set must end at 6 p. m. or 7 p. m., according to whether work in the morning set began at 6 a. m. or 7 a. m.

4. On Saturday work must begin either (1) at 6 a. m. and end at 12.30 p. m. in the case of manufacturing processes and 1 p. m. for other purposes, or, if not less than one hour is allowed for meals, at 1 p. m. in manufacturing processes and at 1.30 p. m. for other purposes; or (2) it may begin at 7 a. m., in which case it must end at 1.30 p. m. in manufacturing processes and at 2 p. m. for other purposes, with at least one half an hour for meals.

5. In no case shall a child be employed in two successive periods of 7 days in a morning set, nor in two successive periods of 7 days in an afternoon set, nor on two successive Saturdays, nor on Saturday in any week if on any other day in the same week the period of employment has exceeded  $5\frac{1}{2}$  hours.

6. When a child is employed on the alternate-day system the period of employment for such child and the time allowed for meals must be the same as if the child were a young person, but the child shall not be employed on two successive days, and must not be employed on the same day of the week in two successive weeks. Under either system a child must not be employed continuously for any longer period than he could be if he were a young person, without an interval of at least half an hour for a meal.

HOURS OF LABOR OF CHILDREN IN NONTEXTILE FACTORIES AND WORKSHOPS.—In nontextile factories and workshops the following regulations are provided with respect to the hours of labor of children:

1. Children must be employed according to the system of morning and afternoon sets, except in the case of a factory or workshop in which not less than two hours are allowed for meals on every day except Saturday, where the system of employment on alternate days may be followed.

2. The morning set must begin at 6, 7, or 8 a. m. and end at 1 p. m., or, if the dinner time begins before 1 o'clock, at the beginning of the dinner time.

3. The afternoon set must begin at 1 p. m. or at the end of the dinner time if after 12.30 p. m. If the dinner hour does not begin before 2 p. m., the afternoon set may begin at noon, in which case the morning set must end at noon. The afternoon set must end at 6, 7, or 8 p. m., according as work began in the morning at 6, 7, or 8 o'clock.

4. On Saturday the period for a morning or an afternoon set is the same as on other days, except that the afternoon set must end at 2 p. m., or if the period on other days ends at 8 p. m., then at 4 p. m.

5. A child must not be employed in two successive periods of 7 days in a morning set, nor in two successive periods of 7 days in an after-



noon set, nor on Saturday in any week in the same set in which he has been employed on any other day of the same week.

6. When a child is employed on the alternate-day system, work must begin at 6, 7, or 8 a. m. and end at 6, 7, or 8 p. m., except on Saturday, when work shall end at 2 p. m., or at 4 p. m. when work begins at 8 a. m. During this work period not less than 2 hours must be allowed the child for meals except on Saturday, when half an hour will suffice. In no case shall the child be employed on two successive days nor on the same day in two successive weeks.

7. Under either system a child must not be employed for more than 5 hours without an interval of at least half an hour for a meal.

**HOURS OF LABOR OF CHILDREN IN DOMESTIC WORKSHOPS.**—The foregoing provisions apply only to ordinary workshops. In domestic workshops the following regulations prevail as to the hours of labor of children:

1. Children must work according to the morning and afternoon sets system, the alternate-day system not being permitted. The work period in this case is from 6 a. m. to 1 p. m., or from 1 p. m. to 8 p. m., or on Saturday afternoon from 1 to 4 o'clock.

2. A child must not be employed before the hour of 1 p. m. in two successive periods of 7 days, nor after that hour in two successive periods of 7 days, nor can a child be employed on Saturday before that hour if on any other day in the same week he has been employed before that hour, nor after that hour if on any other day of the same week he has been employed after that hour.

3. A child shall not be employed continuously for more than 5 hours without an interval of at least half an hour for a meal.

**HOURS OF LABOR OF WOMEN AND YOUNG PERSONS IN TEXTILE FACTORIES.**—In textile factories the work period for women and young persons, except on Saturday, shall be from 6 a. m. to 6 p. m., or 7 a. m. to 7 p. m., with not less than 2 hours, of which at least one must be before 3 p. m., for meals. On Saturday the work period must either (1) begin at 6 a. m. and end at 12.30 p. m. for manufacturing processes or 1 p. m. for other purposes, or if not less than one hour is allowed for meals, 1 p. m. for manufacturing processes and 1.30 p. m. for other purposes; or (2) begin at 7 a. m. and end at 1.30 p. m. for manufacturing processes and 2 p. m. for other purposes. In either case not less than half an hour must be allowed for meals. In no case shall a woman or young person be employed continuously for more than  $4\frac{1}{2}$  hours without an interval of half an hour for a meal. (a)

**HOURS OF LABOR OF WOMEN AND YOUNG PERSONS IN NON-TEXTILE FACTORIES AND WORKSHOPS.**—In nontextile factories and workshops where women and young persons are employed the work

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a In certain classes of textile factories specified by the act, the list of which can be extended by the secretary of state, children, young persons, and women can be employed continuously for 5 hours without an interval of at least half an hour for a meal, the same as if the factories were nontextile factories.



period, except on Saturday, must be from 6 a. m. to 6 p. m., or 7 a. m. to 7 p. m., or 8 a. m. to 8 p. m., with at least one and one-half hours, of which one hour must be before 3 p. m., for meals. On Saturday the work period must be from 6 a. m. to 2 p. m., or 7 a. m. to 3 p. m., or 8 a. m. to 4 p. m., with at least half an hour for meals. The work period on Saturday may, however, be from 6 a. m. to 4 p. m., provided not less than 2 hours are allowed for meals, and the women and young persons so employed are not employed for more than 8 hours on any day in the week, and notice of such nonemployment has been affixed in the factory or workshop and served on the inspector. In no case shall a young person or woman be employed in a nontextile factory or workshop for more than 5 hours continuously without an interval of at least half an hour for a meal.

**HOURS OF LABOR OF WOMEN IN WORKSHOPS WHERE CHILDREN AND YOUNG PERSONS ARE NOT EMPLOYED.**—In a workshop which is conducted on the system of not employing children or young persons, and the occupier has notified an inspector of his intention to conduct his shop on that system, the period of employment for a woman shall, except on Saturday, be a specified period of 12 hours between 6 a. m. and 10 p. m., with a specified interval of not less than one and one-half hours for meals and absence from work. On Saturday the specified period must be for not more than 8 hours between 6 a. m. and 4 p. m., with a specified period of not less than half an hour for meals and absence. (a)

**HOURS OF LABOR OF WOMEN AND YOUNG PERSONS IN DOMESTIC WORKSHOPS.**—In domestic workshops there are no restrictions with regard to the employment of women. The period of employment for young persons therein must, with the exception of Saturday, be between the hours of 6 a. m. and 9 p. m., with not less than  $4\frac{1}{2}$  hours for meals, and on Saturday be between 6 a. m. and 4 p. m., with not less than  $2\frac{1}{2}$  hours for meals.

**EXCEPTIONS TO GENERAL REGULATIONS CONCERNING EMPLOYMENT.**—In the foregoing sections there have been stated the general regulations limiting the hours of labor of women, young persons, and children, and requiring the allowance of certain intervals for meals and rest. To these regulations the law allows certain exceptions, pertaining to overtime and alteration of hours of labor, which will now be noted.

The most important exceptions to the regulations restricting the hours of labor of women, young persons, and children are those permitting overtime work in certain cases. Children are not permitted to work overtime except in the case that in certain nontextile factories and workshops—the list of which the secretary of state has the power

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<sup>a</sup> The regulations of the factory acts with respect to the employment of women do not apply to flax scutch mills which are conducted on the system of not employing either children or young persons, and which are worked intermittently and for periods only which do not exceed in the aggregate 6 months in any year.



to extend—when it is necessary to complete an incomplete process a child may be allowed to work an extra half hour at the end of the day, provided that this extra time added to the total number of hours of the periods of employment of the child in that week does not raise that total above the number of hours allowed under the law.

Overtime employment of young persons is allowed in three cases only: (1) In the case above noted, when children can be employed an extra half hour, the conditions of which apply to young persons also. (2) When it appears to the secretary of state that factories driven by water power are liable to be stopped by drought or flood, he may grant to them a special permission allowing the employment of young persons from 6 a. m. to 7 p. m. He can attach to this permission such conditions as he deems proper, but no person shall be deprived of the meal hours allowed by the act nor be so employed on Saturday. When drought is apprehended the special exception shall not be for more than 96 days and in the case of floods shall not be for more than 48 days in any year. In no case shall this overtime be for a longer period than was lost during the preceding 12 months. (3) When there is danger of damage from spontaneous combustion in the process of Turkey-red dyeing, or from any extraordinary atmospheric influence in open-air bleaching, a young person may be employed overtime to prevent the damage.

The overtime employment of women is permitted in all three cases in which young persons may be so employed, and under the same conditions and, in addition, in the following cases: (1) In certain specified nontextile factories, workshops, and warehouses—the list of which the secretary of state has the power to extend—when either the materials are liable to be spoiled by the weather, or there is a press of work at certain seasons, or there is a sudden press of orders from unforeseen causes. In these cases women may be employed either from 6 a. m. to 8 p. m., or 7 a. m. to 9 p. m., or 8 a. m. to 10 p. m., provided 2 hours, of which half an hour must be after 5 p. m., are allowed for meals. In no case, however, can a woman be employed overtime under this provision for more than 3 days in a week or more than 30 days in a year. This exception can only be availed of after permission has been obtained from the secretary of state. (2) In certain specified nontextile factories and workshops—the list of which the secretary of state has the power to extend—in which the articles or materials dealt with are of a perishable nature, women may be employed from 6 a. m. to 8 p. m., or from 7 a. m. to 9 p. m., provided 2 hours, of which half an hour must be after 5 p. m., are allowed for meals. In these cases a woman can not be employed overtime more than 5 days in any one week nor for more than 60 days in a year. Permission for such overtime work must be obtained from the secretary of state as in the preceding case.

Overtime work on Saturday is in no case permitted for either women, young persons, or children.

The law, as has been shown, not only fixes the duration of labor of



women, young persons, and children, but the hours between which such labor must be performed. As in many cases hardships and inconveniences would result if these regulations were inflexibly adhered to, provision is made whereby these hours can in certain cases be changed. It is important to note that these alterations in working hours are always made under such conditions that the total length of the period worked is in no case increased. The changes permitted are different for each of the three protected classes.

The secretary of state can, where he deems the exigencies of the case warrant it, and where the health of the children will not be endangered thereby, grant permission by special order to any class of nontextile factories and workshops in any particular locality for the period of employment for young persons and women to begin at 9 a. m. and end at 9 p. m. on any day except Saturday, and in such case the period of employment for a child in a morning set shall begin at 9 a. m., and for an afternoon set shall end at 8 p. m.

The cases in which a change of hours of young persons may be permitted are three, as follows: (1) The case noted in the preceding paragraph when, in the nontextile factories and workshops mentioned in the order of the secretary of state, the work period may be from 9 a. m. to 9 p. m. (2) In the process of Turkey-red dyeing Saturday employment may be till 4.30 p. m., if the additional hours have already been deducted on some day or days in the same week. (3) Male young persons over 16 years of age may be employed in that part of a textile factory in which a machine for the manufacture of lace is moved by steam, water, or other mechanical power between the hours of 4 a. m. and 10 p. m., provided that during this period they are allowed not less than 9 hours for absence from work and meals, and are not employed both before and after the ordinary work period on the same day, nor after the ordinary period on one day and before it on the next. In addition to the above, changes in the periods for night work are permitted. These, however, will be considered in connection with the regulations concerning night work.

Changes in the work period for women are the same, and under the same conditions, as the first two cases mentioned under young persons.

In all cases of exceptional employment of any child, young person, or woman, either for a longer period than is otherwise allowed by law, or at night, where it appears to the secretary of state that special means or provisions should be made for the cleanliness or ventilation of the factory or workshop in order to protect the health of those classes, he can make the adoption of these special means or provisions a condition precedent to such exceptional employment.

When a child, young person, or woman is employed in a factory or workshop contrary to the provisions of the factory acts, the occupier is liable to a fine not exceeding £3 (\$14.60), or if the offense was committed during the night, £5 (\$24.33), for each child, young person, or



woman so employed. In the case of domestic workshops the fine is not exceeding £1 (\$4.87), or if the offense was committed during the night, £2 (\$9.73), for each person so employed. Where a child or young person is so employed contrary to the provisions of the factory acts, the parent is liable to a fine not exceeding £1 (\$4.87) for each offense, unless it appears to the court that such offense was committed without the consent, connivance, or willful default of the parent. The parent is also liable to a similar fine when he neglects to cause such child to attend school in accordance with the provisions of the factory acts.

#### SUNDAY AND HOLIDAY LABOR.

The factory acts contain no provision regulating the work of male adults on Sunday. Their provisions on this subject relate only to children, young persons, and women, in which all Sunday work is prohibited in factories and workshops except in certain cases of night work, (which will be considered when that subject is treated) and when both employers and employees are of the Jewish religion. The conditions of the latter exception are as follows:

Where the occupier of a factory or workshop is a person of the Jewish religion he may (1) employ young persons and women on Saturday from after sunset until 9 p. m., if he keeps his establishment closed on that day until sunset; or (2) employ young persons and women an hour on every day in the week except Saturday and Sunday in addition to the hours allowed by the act, if he keeps his establishment closed on Saturday both before and after sunset, but this additional hour must not be before 6 a. m. nor after 9 p. m.; or (3) when he does not avail himself of either of the two preceding exceptions, and his establishment is closed on Saturday and not open for traffic on Sunday, he may employ young persons and women of the Jewish religion on Sunday. When the occupier avails himself of this third exception, the factory acts apply to his establishment the same as if the word Saturday were substituted for Sunday in the provisions respecting Sunday, and the word Sunday or Friday, as the occupier may elect, were substituted for Saturday in the provisions respecting Saturday.

The factory acts make the following provisions concerning the granting of holidays to children, young persons, and women employed in factories and workshops: In addition to Sunday and Saturday afternoons, all children, young persons, and women employed in a factory or workshop (save as specially excepted in the act and other than a domestic workshop) must be allowed at least 6 additional holidays. For England and Wales these holidays are Christmas, Good Friday, and the four bank holidays; but for any of these holidays except Christmas day another holiday or two half holidays may be substituted, if notice of the substitution is posted in the premises during the first week in January and a copy sent to the inspector. If such a change has been made a further change may be made on 14 days'



similar notice. At least half of the holidays must be between March 15 and October 1 of each year. In Scotland and Ireland the regulations are somewhat different.

A Jewish occupier may also, if all the children, young persons, and women in his employment are of the Jewish religion, substitute two bank holidays for Christmas day and Good Friday; but if he does so, he must not keep his factory or workshop open for traffic on Christmas day or Good Friday.

Except in a small number of classes of factories and workshops in which the secretary of state can authorize the giving of different holidays to different persons or classes of persons, all children, young persons, and women in the same establishment must have the same holidays. The secretary of state can also, where he deems the exigencies of the trade carried on in any class of nontextile factories or workshops necessitate it, require some other day in the week to be substituted for Saturday as regards the hour at which the period of employment for children, young persons, and women shall terminate.

#### NIGHT WORK.

As in the case of Sunday work, no restrictions are placed upon the labor of male adults at night. The employment of women and children at night, except in the cases of overtime work elsewhere mentioned, is absolutely prohibited. The same is true of female young persons. Male young persons, however, may be employed at night in the following cases:

1. In any process incidental to the business of blast furnaces, iron mills, letterpress printing works, and paper mills, male young persons of 14 years of age or upward may be employed at night between the hours of 9 p. m. and 6 a. m., provided (1) that the period of employment shall not exceed 12 consecutive hours, which shall be specified in a notice, and the meal hours must be similar to those required for day workers; (2) that anyone employed during any part of the night shall not be employed during any part of the 12 hours preceding or succeeding the period of employment; (3) that the same person shall not be employed on more than 6 nights, or in the case of blast furnaces or paper mills 7 nights, in any two weeks. Young persons to whom this section applies may, however, be employed in three shifts of 8 hours each, provided that there is an interval of two unemployed shifts between each two shifts of employment. Also, the provisions of the factory acts with respect to the period of employment on Saturday, and the allowance to young persons of 8 half holidays in every year or of whole holidays in lieu of them, do not apply to male young persons of 14 years of age or over employed in day and night turns in pursuance of this section.

2. Where it is proved to the satisfaction of the secretary of state that in any class of nontextile factories or workshops it is necessary,



by reason of the nature of the business requiring the process to be carried on throughout the night, to employ male young persons of 16 years of age or upward at night, and that such employment will not injure the health of the young persons, he may by order extend this exception to such factories or workshops so far as regards young persons 16 years of age or upward. In pursuance of this power, the secretary of state has extended the exception to a number of industries.

3. In a factory or workshop in which the process of printing newspapers is carried on not more than 2 nights in a week, a male young person, 16 years of age or upward, may be employed at night as if he were an adult, but he can not be employed more than 12 hours consecutively.

4. In glass works male young persons of 14 years of age or upward may work according to the accustomed hours of the works, on the following conditions, namely: (1) That the total number of hours of the periods of employment do not exceed 60 in any one week; (2) that the periods of employment of such young persons shall not exceed 14 hours in 4 separate turns per week, or 12 hours in 5 separate turns per week, or 10 hours in 6 separate turns per week, or any less number of hours in the accustomed number of separate turns per week, so that such number of turns do not exceed 9 per week; (3) that such young persons shall not work in any turn without an interval of time not less than one full turn; and (4) that such young persons shall not be employed continuously for more than 5 hours without an interval of at least half an hour for a meal.

#### MEAL HOURS.

The general requirements concerning the intervals of rest to be allowed children, young persons, and women for meals have been given in connection with those specifying their periods of employment. There are, however, a number of other requirements concerning this subject that should be enumerated. With the exception of certain cases specified in the act of 1878, all children, young persons, and women employed in factories and workshops must have the time allowed for meals at the same hour of the day, and none of these three classes shall be employed or be allowed to remain in a room in which a manufacturing process is being carried on during any part of the time allowed for meals.

The exceptions above alluded to are—in the case of mealtimes being at the same hour for all classes—blast furnaces, iron mills, paper mills, glass works, letterpress printing works, and, in the case of male young persons, that part of any print works or bleaching and dyeing works in which the process of dyeing or open-air bleaching is carried on. The exceptions to the prohibition of any of the protected classes being in a room where a manufacturing process or handicraft is being carried on during the meal hours are iron mills, paper mills, glass works in some cases, letterpress printing works, and in the case of male young



persons, that part of any print works or bleaching and dyeing works in which the process of dyeing or open-air bleaching is carried on to a certain extent.

The above provisions do not apply to places where persons are employed at home, but which by reason of the work there carried on are factories or workshops within the meaning of the law, and in which neither steam, water, nor other mechanical power is used, and in which the only persons employed are members of the family dwelling there.

The secretary of state has the right to add to the list of excepted industries those factories or workshops where it is proved to his satisfaction that by reason of the continuous nature of the process or other special circumstances such action should be taken, and that such exception can be made without injury to the health of the children, young persons, or women. In pursuance of this power the secretary of state has authorized a number of exceptions. The law also enumerates a number of places the list of which can and has been added to by the secretary of state, in which children, young persons, and women shall not be allowed to take their meals, whether a manufacturing operation is in progress or not. These places are in general those where dust, injurious chemicals, gases, etc., are used or generated.

#### BAKEHOUSES.

A bakehouse is defined to be "any place in which are baked bread, biscuits, or confectionery, from the baking or selling of which a profit is derived." A bakehouse as thus defined is ranked as a nontextile factory if mechanical power is employed, and if not, it ranks as a workshop. It is thus subject to the general regulations concerning factories and workshops as heretofore given.

The factory acts also apply to bakeries, which are workshops even when they do not employ children, young persons, or women, although workshops generally which do not employ any of these classes do not come under the provisions of the factory acts.

Chiefly on the ground of protecting the public health the factory acts contain regulations relating specially to bakeries. A statement of these special conditions follows:

No place under ground shall be used as a bakehouse unless it was so used at the commencement of the act of 1895.

No room or place shall be used as a bakehouse unless the following conditions are complied with: (1) No water-closet, earth closet, privy, or ash pit shall be within or communicate directly with the bakehouse; (2) any cistern for supplying water to the bakehouse shall be separate and distinct from any cistern for supplying water to a water-closet; (3) no drain or pipe for carrying off fecal or sewage matter shall have an opening within the bakehouse. A fine not exceeding 40s. (\$9.73) is provided for any contravention of these regulations, and a further fine of 5s. (\$1.22) per day during continuance of such illegal act.



In all bakehouses the inside walls of the rooms and the ceilings or tops of such rooms and all passages and staircases must be either painted with oil or varnish or be lime washed. When painted with oil or varnish there must be three coats of oil or varnish, which must be renewed at least once in every 7 years and washed with hot water and soap once at least in every 6 months. When lime washed, the lime washing must be renewed once at least every 6 months. A place on the same level with a bakehouse and forming part of the same building must not be used as a sleeping room unless it is effectually separated from the bakehouse by a partition extending from the floor to the ceiling, and there is in the room an external glazed window of at least 9 superficial feet area, of which at least  $4\frac{1}{2}$  superficial feet are made to open for ventilation.

When a court of summary jurisdiction is satisfied that a place used as a bakehouse is unfit on sanitary grounds to be so used, the occupier is liable on summary conviction to a fine not exceeding £2 (\$9.73). Instead of or in addition to imposing a fine the court may order the occupier to remove the ground of complaint under penalty of a fine not exceeding £1 (\$4.87) per day during noncompliance.

In respect to retail bakehouses, that is, such as are not factory bakehouses, and in which the bread, biscuits, or confectionery baked is not sold at wholesale, but at retail in some shop or place occupied together with such bakehouse, the regulations regarding cleanliness, ventilation, overcrowding, and other sanitary conditions are enforced by the local sanitary authorities instead of by the inspectors of factories.

To the general regulations regarding the employment of children, young persons, and women in factories and workshops, which, as has been stated, apply equally to bakehouses, the following three exceptions are permitted: (1) A male young person above the age of 16 years can be employed in the part of a bakehouse in which the process of bread baking is carried on between 5 a. m. and 9 p. m., provided (a) where he is employed before the beginning or after the end of the ordinary period of employment allowed for young persons under 16 years of age, there is allowed him between the above-mentioned hours for meals and absence from work not less than 7 hours, and (b) that, if employed before the beginning of the ordinary period of employment, he shall not be employed after the end of that period on the same day, and if employed after the end of the ordinary period of employment, he shall not be employed next morning before the beginning of the ordinary period of employment. (2) Women may be employed overtime in biscuit making under the same conditions where overtime is permitted in factories or workshops on account of the danger that materials may be spoiled by the weather or an unusual press of orders at certain seasons or from unseen causes. (3) Children, young persons, and women may be employed an extra half hour at the end of the day



for the purpose of completing a process that is unfinished at the end of the day, as described above (page 806), in the section relating to overtime work of children in factories.

Those provisions of the factory acts which require that children, young persons, and women shall have their mealtimes at the same hour and not be employed or allowed to remain in rooms in which work is being done during such mealtimes, do not apply to bakeries which are factories and in which bread or biscuits are made by means of traveling ovens.

### LAUNDRIES.

Laundries were first brought under the provisions of the factory acts in 1895 through the factory act of that year. Contrary to the policy pursued in the case of bakeries, instead of extending the provisions of the factory acts to laundries a special code for their regulation was incorporated in the act. The most important difference made by this change is that the special regulations of the acts in respect to hours of labor and times for meals do not apply to laundries, their place being taken by special provisions.

Laundries, as regulated by this act, are only those which are carried on by way of trade or for the purpose of gain. The provisions of the act thus do not apply to laundries in which the only persons employed are inmates of any prison, reformatory, or industrial school, or other institution for the time being subject to inspection under any act other than the factory acts; or inmates of any institution conducted in good faith for religious or charitable purposes; or members of the same family dwelling therein, or in which not more than two persons dwelling elsewhere are employed. For all other laundries the following conditions are imposed by the law: (1) The period of employment, exclusive of mealtimes and absence from work, shall not exceed 10 hours for children, 12 hours for young persons, and 14 hours for women in any consecutive 24 hours; nor a total of 30 hours for children and 60 hours for young persons and women in any one week, in addition to such overtime work as is permitted in the case of women in virtue of provisions of the law given below. (2) A child, young person, or woman shall not be employed continuously for more than 5 hours without an interval of at least half an hour for a meal. They shall have allowed to them the same holidays as are provided in the factory acts. (3) No child under 11 years of age, nor any woman within 4 weeks after she has given birth to a child shall be employed in a laundry.

Women employed in laundries may work overtime under the following conditions: They must not work more than 14 hours per day nor more than 2 hours overtime per day. Overtime work shall not be allowed on more than 3 days in any week, nor on more than 30 days in any year. Notice of the intention to work overtime must be served on the inspector and affixed in the laundry in advance, and the prescribed particulars of overtime worked must be entered in a register, reported



to the inspector, and affixed in the laundry, as in the case of factories and workshops.

The provisions of the factory acts relating to sanitary conditions, accidents, safety, the affixing of notices and abstracts and the matter specified in such notices (so far as they apply to laundries), notice of occupation, powers of inspectors, fines, and legal proceedings for any failure to comply with the provisions, and education of children have effect as if every laundry in which steam, water, or other mechanical power is used were a factory, and every other laundry were a workshop.

In the case of laundries worked by steam, water, or other mechanical power, a fan or other means of a proper construction must be provided, maintained, and used for regulating the temperature in every ironing room, and for carrying away the steam in every washhouse in the laundry. All stoves for heating irons must be sufficiently separated from any ironing room, and gas irons emitting any noxious fumes shall not be employed. Floors must be kept in good condition, and drained in such a manner as will allow the water to flow off freely.

The notices required to be affixed in each laundry must specify the period of employment and the times for meals, but the period and times so specified may be varied on any day before the beginning of work.

#### DOCKS AND BUILDING OPERATIONS.

The act of 1895 made certain limited portions of the factory acts applicable to the following two classes of places in which industrial operations are carried on: (1) Every dock, wharf, quay, and warehouse, and, so far as relates to the process of loading or unloading therefrom or thereto, all machinery and plant used in that process; and (2) any premises on which machinery worked by steam, water, or other mechanical power is temporarily used for the purpose of the construction of a building or any structural work in connection with a building. In respect to these sections these two classes of premises are considered as if they were included in the word factory and as if the purposes for which the machinery is used were a manufacturing process.

The provisions of the factory acts referred to as applicable are those (1) providing for penal compensation for persons killed or injured as the result of their employers neglecting to take such precautions to avoid accidents as are required by the acts, (2) specifying the powers of factory inspectors, (3) providing special rules for the regulation of dangerous occupations, and (4) relating to the power to make special orders as to the use of dangerous machines. The provisions of the acts which relate to notices and formal investigation of accidents also apply in the same manner to (1) any building which exceeds 30 feet in height and which is being constructed or repaired by means of scaffolding, and (2) any building which exceeds 30 feet in height and in which more than 20 persons, not being domestic servants, are employed for wages. In the first case the person liable is the employer and in the second the occupier of the building.



**TENEMENT FACTORIES.**

Where mechanical power is supplied to different parts of the same building (by which is meant all buildings situate within the same close or curtilage) occupied by different persons for the purpose of any manufacturing process or handicraft, in such a manner that those parts constitute in law separate factories, it was found necessary to make a change in a number of respects in the way in which the factory laws apply to the conditions of work there carried on.

Places of this description are designated "tenement factories," and in their use the owner (*a*), except in the case of any occupier paying a rent in excess of £200 (\$973.30) a year, in which case the provisions do not apply, is liable, instead of the occupier, for the observance and punishable for the nonobservance of those provisions of the factory acts which relate to (1) the keeping of factories in a sanitary condition, their proper ventilation, and the avoidance of overcrowding; (2) the fencing of machinery, except so far as concerns those parts as are supplied by the occupier; (3) the affixing of notices specifying the periods of employment and meal hours, and the mode of employment of children, except that when different industries are carried on in the same tenement factory, when this obligation falls upon the occupiers; (4) the lime washing and washing of the interior so far as it relates to any engine room, passage, or staircase, or to any room which is let to more than one tenant; (5) the supplying of pipes or other contrivances necessary for working the fan or means used for removing dust, except in textile factories; and (6) the affixing of an abstract of the factory acts and notices.

In the making of special orders for the regulation of dangerous employments, the secretary of state may substitute the owner of the tenement factory for the occupier. The provisions of the acts with respect to the power to make orders in the case of dangerous premises apply in the case of a tenement factory as if the owner were substituted for the occupier.

Where grinding is carried on in a tenement factory, the owner of the factory is responsible for the observance of various special regulations contained in the act of 1895 concerning the fencing of shafting and pulleys with boards known as drum boards, the fixing of hand rails over drums, the provision of belt guards known as scotchmen, the construction of floors, the position of grindstones in factories built after the commencement of the act of 1895, and various other provisions. In every such tenement factory it is also the duty of the owner and of the occupier, respectively, to see that such parts of the horsing chains and of the hooks to which the chains are attached as are supplied by them respectively are kept in efficient condition. Further, in every

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*a* The owner is defined to be the person who receives the rack rent, or who would receive it if the building were let at a rack rent.



tenement factory where grinding or cutlery is carried on, the owner of the factory shall provide that there shall at all times be instantaneous communication between each of the rooms in which the work is carried on and both the engine room and the boiler house. The foregoing regulations do not apply to textile factories.

A certificate of the fitness of any young person or child for employment in a tenement factory is valid for his similar employment in any part of the same tenement factory.

### SWEATING SYSTEM.

The first attempt to regulate the conditions of labor of persons employed outside of factories and workshops, as defined by law, was made by the factory act of 1891. The purpose of this legislation was to remove the evils that had grown up in connection with the giving out by factories and workshops of work to be performed outside of their limits. It was therefore directed against what is known as the sweating system.

The provision of the law relating to this question reads, in substance, that the secretary of state can, by order, require the occupier of any factory or workshop, including any workshop conducted on the system of not employing any child, young person, or woman, and every contractor employed by any such occupier in the business of the same to keep in a prescribed form and with the prescribed particulars, lists showing the names of all persons directly employed by him, either as workman or contractor, in the business of the factory or workshop, outside the factory or workshop, and the places where they are employed; and every such list must be open to inspection by any inspector under the factory acts or by any officer of a sanitary authority. The failure to comply with any of the provisions of this section renders the occupier or contractor liable to a fine of £2 (\$9.73). In pursuance of the power given to him in the foregoing provision, the secretary of state has ordered the keeping of such lists by all occupiers and contractors engaged in the manufacture of wearing apparel, electroplate, and files, and in cabinet and furniture making and upholstery work.

This attempt to regulate the sweating system was further strengthened by various provisions of the factory act of 1895. Sections of this law provided (1) that the list of persons to whom work was given, as provided by the act of 1891, should also be sent to the inspector of the district in which the factory or workshop is situated on or before March 1 and September 1 in each year; (2) that any place from which any work of making wearing apparel for sale is given out is, for the purposes of the above requirements, to be deemed to be a workshop; (3) that if an occupier of a workshop or laundry, or of any place from which any work is given out, or any contractor employed by any such occupier, causes or allows wearing apparel to be made, cleaned, or repaired in any dwelling house or building connected therewith while



any inmate of the dwelling house is suffering from scarlet fever or smallpox, then, unless he proves that he was not aware of the existence of the illness in the dwelling house, and could not reasonably have been expected to become aware of it, he shall be liable to a fine not exceeding £10 (\$48.67); and (4) that if an inspector gives notice in writing to the occupier of a factory or workshop, or to any contractor employed by any such occupier, that any place in which work is carried on for the purpose of or in connection with the business of the factory or workshop is injurious or dangerous to the health of the persons employed therein, then, if the occupier or contractor after the expiration of one month from the receipt of the notice gives out work to be done in that place, and the place is found by the court having cognizance of the case to be so injurious or dangerous, he shall be liable on summary conviction to a fine not exceeding £10 (\$48.67).

This latter provision applies in the case of the occupier of any place from which work is given out as if that place were a workshop. It is, however, limited to those persons employed in the classes of work and employed within such areas as may from time to time be specified by the secretary of state; and no such order can be made by him except with respect to an area where, by reason of the number and distribution of the population or the conditions under which work is carried on, there are special risks of injury or danger to the health of the persons employed and of the district.

It will be observed that the provisions of the act of 1895 are of much greater importance than those of 1891. The latter merely provided for the keeping of lists of places where outside work was performed. The former gives the secretary of state the power to designate classes of work and areas within which the inspectors of factories can, as above described, indicate to employers places dangerous to the health of the employees and where in consequence work shall not be performed. The inspectors of factories thus, under the law of 1895, have the power of actively intervening and prohibiting outside work in improper places.

#### **KEEPING REGISTERS, POSTING REGULATIONS, ETC.**

In order to facilitate the enforcement of the laws, and for other reasons, the factory acts impose upon occupiers of factories and workshops the keeping of certain records, the posting of regulations in their establishments, and the notification of inspectors when certain lines of action are contemplated.

The following are the records, or registers and lists, that must be kept by occupiers: (1) A register in prescribed form and with the prescribed particulars must be kept by the occupier, showing the children and young persons employed in every factory in which a child or young person under the age of 16 years is for the time being prohibited from being employed without a certificate of fitness, or in which women may be employed overtime. The secretary of state has also the power of



requiring such registers to be kept in factories and workshops other than those as defined above, where a large number of children or young persons are employed. (2) A register must be kept by every occupier of a factory or workshop of the accidents occurring therein of which notice is required by the factory acts, that is, of those causing death or serious bodily injury. (3) A list of outworkers and their places of employment, as described in the section relating to the sweating system. (4) A register must be kept by every occupier of a factory or workshop of the prescribed particulars concerning every case where a child, young person, or woman is worked in pursuance of an exception, as of overtime.

The following are the obligations imposed upon occupiers regarding the posting of regulations and notices:

1. There shall be affixed at the entrance of every factory and workshop, and in such other parts thereof as an inspector for the time being directs, and be constantly kept so affixed in the prescribed form and in such position as to be easily read by the persons employed in the factory or workshop (1) the prescribed abstract of the factory acts; (2) the name and address of the prescribed inspector; (3) the name and address of the prescribed certifying surgeon for the district; (4) a designation of the clock, if any, by which the period of employment and the times for meals in the factory or workshop are regulated; (5) the number of persons who may be employed in each room; (6) the period of employment and mealtimes, and the mode of employment of children. The penalty for the contravention of any of these provisions is a fine not exceeding £2 (\$9.73). The foregoing requirements do not apply to domestic workshops.

2. In certain factories and workshops, where the work is subjected to special regulation, other regulations must be posted as follows: (1) In those factories and workshops where the employment of children or young persons is prohibited, notice of such prohibition; (2) where the taking of meals by children, young persons, or women in certain parts of factories or workshops is prohibited, notice of such prohibition; (3) copies of all special rules for the time being in force; (4) in cotton cloth and humid textile factories, a table of the limits of humidity and readings of the thermometer.

3. When an occupier of a factory or workshop intends to take advantage of certain special exceptions he must affix notices showing (1) his intention to take advantage of the exception, which notice must be posted 7 days in advance; (2) the substitution of other holidays for those fixed by law, which must be exhibited the first week in January; (3) the further substitution of holidays, which must be exhibited 14 days before the proposed day; (4) when it is desired to employ young persons or women in a nontextile factory or workshop for 8 hours on Saturday, notice that such persons have not been employed more than 8 hours on any day in the week.



The following are the various classes of notices and returns that must be made by occupiers of factories and workshops to the inspectors of the district in which their establishments are located: (1) A notice to be delivered within one month after the factory or workshop is occupied, giving the name of the factory or workshop, the place where it is situated, the nature of the work, the nature and amount of the power employed, and the name of the firm under which the business of the establishment is to be carried on; (2) a return on or before March 1 of every year, showing for the preceding year ending December 31, the number of persons employed, with such particulars as to age and sex as the secretary of state may direct; (3) a notice of any accident causing death or serious bodily injury to be sent immediately (the subject of reporting accidents is more fully considered in the special section devoted to that subject); (4) notice of every case of lead, phosphorous or arsenical poisoning, or anthrax, occurring in a factory or workshop must be immediately sent to the inspector and to the certifying surgeon of the district, and this obligation may, by order of the secretary of state, be extended so as to include any other disease; (5) monthly notices of the readings of thermometers in cotton cloth factories; (6) a list of outworkers and their places of employment, as described in the section relating to the sweating system; (7) a report of overtime employment to be sent not later than 8 p. m. on the day of employment.

In all cases when the occupier of a factory or workshop intends to avail himself of certain special provisions of the acts, or of special exemptions, he must notify the inspector of his intention and include in the notice such particulars as are necessary to show the change contemplated. He must thus notify the inspector of his intention to conduct a workshop on the principle of not employing children or young persons, or, if working on that system, to alter it; of his intention to conduct a flax scutch mill, on the system of not employing children or young persons; of his intention to change the period of employment or mealtimes or the mode of employment of children; the substitution of holidays, night work, overtime work, etc.

#### REPORTING AND INVESTIGATION OF ACCIDENTS.

The British law makes careful provision for the investigation of all serious accidents and their recording, with a view of determining the responsibility and cause of their occurrence. Where there occurs in any factory or workshop, including workshops conducted on the system of not employing any child, young person, or woman, any accident which either causes loss of life to a person employed in the factory or workshop, or causes to any person therein employed such bodily injury as to prevent him on any one of the three working days next after the occurrence of the accident from being employed for 5 hours on his ordinary work, written notice must be immediately sent to the inspector of the district.



The occupier of every factory or workshop must also keep a register of all such accidents, in which he must enter the occurrence of every such accident within one week after its occurrence, and this register must at all times be open to the inspection of the inspector or the certifying surgeon of the district. The penalty for noncompliance with this provision is a fine not exceeding £10 (\$48.67).

If the accident causes loss of life, or is produced either by machinery moved by steam, water, or other mechanical power, or through a vat, tank, or other structure filled with hot liquid or molten metal or other substance, or by explosion or escape of gas, steam, or metal, then, unless notice thereof is required by the explosives act of 1875 to be sent to a government inspector, notice must immediately be sent to the certifying surgeon of the district. The notice must state the residence of the person killed or injured, and the place to which he has been removed. If notice as above required is not sent, the occupier of the factory is liable to a fine not exceeding £5 (\$24.33). If the accident occurs to a person employed in an iron mill or blast furnace, or other factory or workshop, where the occupier is not the actual employer of the person killed or injured, the actual employer must immediately report the same to the occupier, and in default shall be liable to a fine not exceeding £5 (\$24.33).

When a certifying surgeon, as before mentioned, receives notice of an accident, he shall, with the least possible delay, proceed to the factory or workshop, and make a full examination as to the nature and cause of the death or injury caused by the accident, and make a report thereof to the inspector within the next 24 hours. In making this investigation he has the same powers as an inspector and can enter any room in the building to which the person killed or injured has been removed. For making the investigation he is allowed a fee of from 3s. to 10s. (\$0.73 to \$2.43).

Where a death has been caused by accident, the coroner must immediately advise the district inspector of the time and place of holding the inquest, and at such inquest any relative of any person whose death may have been caused by the accident, and any inspector, and the occupier of the factory or workshop in which the accident occurred, and any person appointed by the order in writing of the majority of the work people employed in the factory or workshop shall be at liberty to attend and examine any witness, either in person or by counsel, solicitor, or agent, subject to the order of the coroner. Unless an inspector or some person on behalf of the secretary of state is present to watch the proceedings, the coroner must adjourn the inquest, and must in writing give the inspector at least 4 days' notice of the time and place of holding the adjourned inquest. If the accident has not occasioned the death of more than one person, and the coroner has sent to the inspector notice of the time and place of holding the inquest at such time as to reach the inspector not less than 24 hours before the



time of holding the same, it shall not be imperative on him to adjourn the inquest, if the majority of the jury think it unnecessary to do so.

The secretary of state can, when he deems it expedient, order the formal investigation of the causes and circumstances of an accident. When this is done the mode of procedure laid down in the coal mines regulation act of 1887 will be followed. This provision extends to workshops conducted on the system of not employing any child, young person, or woman therein.

If any person is killed or suffers any bodily injury or injury to health in consequence of the occupier of a factory or workshop having neglected to observe any of the provisions of the factory acts or any special rules or requirements, the occupier is liable to a fine not exceeding £100 (\$486.65), and the whole or any part of that sum may be applied for the benefit of the injured person or his family or otherwise, as the secretary of state may direct. In case of injury to health, it must be proved that the injury was caused directly by the neglect. The occupier, however, is not liable to a fine under the foregoing provision if an information against him for not fencing the part of the machinery, etc., by which death or bodily injury was inflicted had been heard and dismissed previous to the time when the accident occurred. (a)

#### NOTICE OF CASES OF POISONING.

The occupier of any factory or workshop must immediately send a written notice to the inspector and the certifying surgeon of the district of every case of lead, phosphorous, or arsenical poisoning, or anthrax, occurring in his establishment. Every medical practitioner, also, attending or called in to visit a patient whom he believes to be suffering from poisoning, as above mentioned, or anthrax, contracted in a factory or workshop, must immediately send to the chief inspector of factories a notice stating the name and full postal address of the patient and the disease from which, in the opinion of the medical practitioner, the patient is suffering. A fee of 2s. 6d. (\$0.61) is allowed for such service. Failure to comply with this requirement renders the physician liable to a fine not exceeding £2 (\$9.73). Upon the receipt of this notice information is immediately sent to the inspector and the certifying surgeon for the district, whereupon the same action must be taken as in the case of an accident causing death or serious bodily injury. The secretary of state may, by order, add to the list of diseases above enumerated concerning which this special action must be taken.

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<sup>a</sup> In addition to the above requirements concerning the reporting of accidents which are contained in the factory acts, a special "Notice of accidents act" (57 and 58 Vict., c. 28) was passed in 1894 and a "Fatal accident inquiry (Scotland) act" (58 and 59 Vict., c. 36) in 1895, which relate more particularly to accidents occurring in industries not comprehended under the factory acts.



**SPECIAL ORDERS.**

In most if not in all cases where the secretary of state has power to make a special order under the factory acts the order must be laid as soon as possible before both houses of Parliament, and either of these houses has the power within the next 40 days to order the annulment of such order. In making special orders the secretary of state can, if he deems best, consider that different branches or departments of work carried on in the same factory or workshop are different factories or workshops.

**INSPECTION OF FACTORIES.**

The administration of the factory laws and the enforcement of their multifarious provisions are intrusted to the secretary of state for the home department. The law, instead of creating an inspection service and specifying the number of officials, leaves to this officer the determination of the number of inspectors that may be required, their salaries, official designation, etc. The law reads that the secretary of state from time to time, with the approval of the treasury as to numbers and salaries, may appoint such inspectors under whatever title he may from time to time fix, and such clerks and servants as he may think necessary for the execution of this act, and may assign to them their duties and award them their salaries, and may constitute a principal inspector with an office in London, and may regulate the cases and manner in which the inspectors, or any of them, are to execute and perform the powers and duties of inspectors under this act, and may remove such inspectors, clerks, and servants.

The law disqualifies the following persons from acting as inspectors, viz: Any occupier of a factory or workshop or person who is directly or indirectly interested in any process or business carried on therein, or any patent connected therewith, or person who is employed in or about a factory or workshop. Notice of the appointment of an inspector must be published in the London Gazette. An inspector is relieved from liability to serve in any parochial or municipal office. There shall be laid before the House of Parliament such annual reports of the proceedings of inspectors as the secretary of state may direct.

In pursuance of these powers given to the secretary of state, that officer has organized an inspection force, which, according to the annual report of the chief inspector for 1897, consisted at that date of 1 chief inspector, 6 superintending inspectors, 44 inspectors, 27 junior inspectors, 4 assistant examiners, 23 inspectors' assistants, 1 lady superintending inspector, 1 principal lady inspector, and 4 lady inspectors, or a total of 111 persons.

For the purpose of executing the acts any inspector has the power (1) to enter, inspect, and examine, at all reasonable times by day and night, a factory and a workshop and every part thereof when he has reasonable cause to believe that any person is employed therein, and to



enter by day any place which he has reasonable cause to believe to be a factory or workshop; for this purpose day means the period from 6 a. m. to 9 p. m., and night the period from 9 p. m. to 6 a. m.; (2) to take with him in either case a constable into a factory or workshop in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty; (3) to require the production of the registers, certificates, notices, and documents kept in pursuance of the factory acts, and to inspect, examine, and copy the same; (4) to make such examination and inquiry as may be necessary to ascertain whether the enactments for the time being in force relating to the public health and the enactments of the factory acts are complied with, so far as respects the factory or workshop and the persons employed therein; (5) to enter any school in which he has reasonable cause to believe that the children employed in a factory or workshop are for the time being educated; (6) to examine either alone or in the presence of any other person, as he thinks fit, with respect to matters under the factory acts, every person whom he finds in a factory or workshop, or such a school as aforesaid, or whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a factory or workshop, and to require such person to be so examined and to sign a declaration of the truth of the matters respecting which he is so examined; and (7) to exercise such other powers as may be necessary for carrying the factory acts into effect.

The occupier of every factory and workshop, his agents and servants, must furnish the means required by an inspector as necessary for an entry, inspection, examination, inquiry, or the exercise of his powers in relation to such factory or workshop. When an inspector is obstructed in the execution of his duties, the person obstructing is liable to a fine not exceeding £5 (\$24.33), and when an inspector is so obstructed in a factory or workshop the occupier of that factory or workshop shall be liable to a fine of not exceeding £5 (\$24.33), or when the offense is committed at night, £20 (\$97.33). In the case of a domestic workshop the fine to which the occupier is liable is not exceeding £1 (\$4.87), or if the offense is committed at night, £5 (\$24.33).

Inspectors must be provided with certificates of appointment, and, if required, must produce the same in applying for admission to a factory or workshop. The forging or using of a counterfeit certificate subjects the guilty person to imprisonment for a period not exceeding three months. An inspector may, if authorized in writing by the secretary of state, prosecute, conduct, or defend before a court of summary jurisdiction or justice any information, complaint, or other proceeding arising under the factory acts, or in the discharge of his duty as inspector.

Besides the foregoing enumerated general powers and duties, the inspectors have others of importance which are mentioned in connection with the statement of the special provisions of the acts. Such, for example, are those of taking action when the sanitary authorities are



n default; of taking part in proceedings at inquests; of enforcing the truck acts, etc. For the enforcement of the provisions of the acts relating to the sanitary condition of workshops, it will be remembered that the position of the inspectors is generally taken by the sanitary authorities, who for this purpose have all the powers of a factory inspector.

### **CERTIFYING SURGEONS.**

In the preceding account of the factory acts frequent reference has been made to certifying surgeons. These officers play a part second only in importance to the inspectors themselves in the scheme of administration of the laws. The principal duties of these officers have been already indicated. Following is the method of their appointment and the conditions that they must observe in performing their duties.

Certifying surgeons are appointed by the chief inspector of factories, subject to such regulations as may be made by the secretary of state, in such numbers as are deemed necessary. Only duly registered medical practitioners are eligible for appointment. A surgeon who is the occupier of a factory or workshop or is directly or indirectly interested therein or in a patent connected therewith can not be appointed a certifying surgeon. Where there is no certifying surgeon resident within three miles of a factory or workshop, the poor law medical officer shall for the time being be the certifying surgeon for such factory or workshop. Certifying surgeons are paid for their services through fees, which vary according to circumstances. In general the fees for examining children and young persons and granting certificates of fitness for employment are paid by the occupiers of the factories or workshops in which the children or young persons are to be employed. The secretary of state can order the reexamination of a child or young person, in which case the fee is paid by him from the treasury.

### **PROSECUTIONS.**

All offenses under the factory acts are prosecuted and all fines recorded before a court of summary jurisdiction in the manner provided by the summary jurisdiction acts. The attempt to reproduce the provisions of the acts regarding the methods of procedure, admissibility of evidence, etc., would necessitate the statement of details to a greater extent than is warranted by the scope of this paper.

### **MERCANTILE AND ALLIED ESTABLISHMENTS.**

The conditions of labor in stores and similar establishments are regulated by the two acts of 55 and 56 Vict., c. 62, passed in 1892, and 56 and 57 Vict., c. 67, passed in 1893. These two acts, though similar in purpose to the factory acts, are not considered as constituting a part of those acts. Their enforcement, therefore, does not constitute a part of the duties of the factory inspectors.



These laws provide that no young person, by which is meant a person under the age of 18 years, shall be employed in or about a "shop" for a longer period than seventy-four hours, including meal times, in any one week. Shop is defined by the act to mean retail and wholesale shops (stores), markets, stalls, and warehouses in which assistants are employed for hire, and includes licensed public houses and refreshment houses of any kind. Shops where the only persons employed are members of the same family, dwelling in the building of which the shop forms a part or to which the shop is attached, and members of the employer's family so dwelling, or any person wholly employed as a domestic servant, are expressly excluded from the provisions of these acts.

No young person shall to the knowledge of his employer be employed in or about a shop having been previously on the same day employed in any factory or workshop for the number of hours permitted by the factory and workshop acts, or for a longer period than will together with the time during which he has been so previously employed complete such number of hours. The penalty for contravention of any of these provisions is a fine not exceeding £1 (\$4.87) for each person so employed.

The enforcement of the acts is left to the local authorities. The council of any county or borough, or in the city of London the common council, may appoint such inspectors as they may think necessary for this purpose, and when so appointed these inspectors have much the same powers as inspectors under the factory acts.

#### **PAYMENT OF WAGES: TRUCK SYSTEM.**

Acts in relation to the payment of wages in kind, the forerunners of the modern truck acts, date from at least as early as the year 1464. (a) In the nearly four centuries following this date numerous laws were passed bearing upon this subject. All of them, however, were substantially repealed in 1831 by the act of 1 and 2 Wm. IV, c. 36. In their place was enacted a general truck act (1 and 2 Wm. IV, c. 37), the full title of which is "An act to prohibit the payment, in certain trades, of wages in goods, or otherwise than in the current coin of the realm." This act, as will be noted, related only to certain trades, which were specifically enumerated. In 1887 an amending act (50 and 51 Vict., c. 46) was passed, which, in addition to introducing a few minor changes, repealed the section giving the enumeration of trades, and in its place substituted the provision that the two acts should apply to all workingmen, as defined by the employers and workmen act of 1875. According to this definition the acts apply to practically all workingmen except domestic and menial servants. These two acts were supplemented by a third act (59 and 60 Vict., c. 44), enacted August 14, 1896, the purpose of which was the regulation of the conditions under which

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<sup>a</sup> Howell, Handy-Book of the Labor Laws, p. 187.



employers could make deductions from wages for faulty work, the use or supply of materials or tools, or in the way of fines. The three acts are collectively known as the "Truck acts, 1831 to 1896." Though not considered as a part of the factory acts, the enforcement of their provisions is a part of the duties of the factory inspectors, or, in the case of mines, of the inspectors of mines.

In the following summary of the provisions of the truck acts, it will be seen that they relate to the four subjects of payment of wages in cash, prohibition of the coercion of employees to trade at particular places, advances to employees, and deductions from wages in the way of fines or otherwise:

1. Workingmen must be paid the full amount of their wages in the current coin of the realm, except that, if they so agree, payment can be made in bank notes or checks payable on demand. Any contract providing for the payment of wages otherwise than as above provided will be treated as null and void. If payment, in whole or in part, has been made in kind, the employee can, nevertheless, sue for the payment of his full wages in money, and the employer can not bring forward as a set-off any goods supplied by himself or any store in which he is interested. Neither can the employer maintain an action against an employee to recover the value of goods furnished as a part of wages.

To this general provision the following exceptions are, however, permitted: When the employee so consents, and a written agreement to that effect has been made, the employer can furnish, as a part of the former's wages, medical supplies and attendance, fuel, materials, tools, and implements to persons engaged in mining; hay, corn, or other provender for horses or other beasts of burden used by employees in their trade; a house for dwelling purposes, and food prepared and eaten in the house of the employer. In no case shall the deduction made on account of such advantages furnished be in excess of their true and real value. In agriculture the laborer can be furnished with food, non-intoxicating drinks, a cottage, and other allowances or privileges, in addition to money wages.

2. All contracts between employers and employees imposing conditions regarding the place where, or manner in which, wages shall be expended are illegal and void. To this provision, which was contained in the law of 1831, the act of 1887 added that "No employer shall, by himself or his agent, dismiss any workman from his employment for or on account of the place at which, or the manner in which, or the person with whom, any wages or portion of wages paid by the employer to such workman are or is expended or fail to be expended."

3. An employer can advance to his employees money to be used in making payments to a friendly society or savings bank duly established according to law, or for their relief in cases of sickness, or for the education of their children, and a contract can be made providing for regular deductions to be made from wages for this latter purpose. When



deductions are made from the wages of employees for the education of their children, or in respect of medicine, medical attendance, or tools, the employer or his agent must, at least once in each year, make out a correct account of the receipts and expenditures in respect of such deductions and submit the same to be audited by two auditors appointed by the employees, and shall produce to the auditors all such books, vouchers, and documents, and give them all other facilities as are required for such audit. When it has been the custom for employers to make advances on wages, such advances must be made without interest or other charges.

4. No deduction shall be made from the wages of employees for sharpening or repairing tools, except by agreement not forming a part of the conditions of hiring.

No deduction from wages shall be made for or in respect of any fine unless the deduction is made in accordance with a contract to that effect, and particulars in writing showing the acts or omissions in respect of which the fine is imposed and the amount of the fine are supplied to the employee on each occasion such deduction is made. Furthermore, the employer can not make any contract providing for fines to be met by deductions from wages unless (1) the terms of the contract are contained in a notice kept constantly affixed at such place or places open to the workmen, and in such a position that it may be easily seen, read, and copied by any person whom it affects, or the contract is in writing signed by the workman; (2) the contract specifies the acts or omissions in respect of which the fine may be imposed, and the amount of the fine or the particulars from which that amount may be ascertained; (3) the fine imposed under the contract is in respect of some act or omission which causes or is likely to cause damage or loss to the employer or interruption or hindrance to his business, and (4) the amount of the fine is fair and reasonable, having regard to all the circumstances of the case.

No deductions shall be made for or in respect of bad or negligent work or injury to the materials or other property of the employer unless the deduction is made in accordance with a contract to that effect, and particulars in writing showing the acts or omissions in respect of which the deduction is made and the amount of the deduction is supplied to the workman on each occasion when a deduction is made. No contract providing for such deductions shall be made unless (1) the terms of the contract are posted or reduced to writing, as provided in the case of fines; (2) the deduction provided for by the contract does not exceed the actual or estimated damage or loss occasioned to the employer, and (3) the amount of the deduction is fair and reasonable, having due regard to all the circumstances of the case.

Finally, no deduction shall be made for or in respect of the use or supply of materials, tools or machines, standing room, light, heat, or for or in respect of any other thing to be done or provided by the



employer in relation to the work or labor of the workman unless the deduction is made in pursuance of a contract to that effect, and particulars in writing showing the things in respect of which the deduction is made and the amount of the deduction is supplied to the workman on each occasion when a deduction is made. No contract shall be made providing for such deductions unless (1) its terms are posted or reduced to writing, as above provided in the case of fines; (2) the sum to be deducted does not exceed, in the case of materials or tools supplied to the workman, the actual or estimated cost thereof to the employer, or in the case of the use of machinery, light, heat, or any other thing, a fair and reasonable rent or charge, having regard to all the circumstances of the case.

Any workman or shop assistant may recover any sum deducted by his employer contrary to the provisions of the truck acts, provided that proceedings are commenced within six months from the date of the deduction, and that where he has consented to or acquiesced in the deduction, he shall only recover the excess that has been deducted over the amount, if any, which the court may find to have been fair and reasonable.

Every employer who has made a contract as provided by these acts shall, on demand in writing by an inspector of factories and mines, produce the contract, or a true copy of it, at any convenient time and place named by the inspector, and the inspector shall have the right to make a copy of it or such parts as he may desire. In all cases the workmen or shop assistants who are parties to the contract must be furnished with a copy of the contract or of the notice containing its terms. The employer must also keep a register, in which shall be entered the amount and cause for which imposed, of all fines. Such register must be open at all times to the inspection of the inspectors of factories or mines.

The secretary of state has the power to exempt any trade or business, or any branch or department of any trade or business, from the foregoing provisions regarding deductions in the way of fines for imperfect work or for material, tools, fire, etc., furnished by the employer, where he is satisfied that such provisions are unnecessary for the protection of the employees in that trade or business. The exemption can relate to a particular area or to the whole country. Every order granting such exemptions must be immediately laid before both houses of Parliament, and either of these bodies can within the next 40 days annul such order.

By a special section in the act of 1887 the truck acts are made to apply to articles under £5 (\$24.33) in value, and which are made of wool, cotton, leather, and certain other materials by persons working in their own homes without other assistance than that of their families. This section, however, can, where it is believed to be for the advantage of the employees, be wholly or partially suspended in any district.

The penalty for the violation of the provisions regarding the produc-



tion of contracts in relation to fines, etc., the furnishing of copies of them to the parties interested, and the keeping of a register of fines imposed is a fine not exceeding £2 (\$9.73). Other violations of the truck acts subject the guilty party to a fine of not exceeding £10 (\$48.67) for the first offense, not less than £10 (\$48.67) nor more than £20 (\$97.33) for the second offense, and in case of a third offense the employer shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine at the discretion of the court, so that the fine shall not in any case exceed £100 (\$486.65).

Distinct from the truck acts, but of the same general character, is the hosiery act of 1874 (37 and 38 Vict., c. 48), the full title of which is, "An act to provide for the payment of wages without stoppages in the hosiery manufacture." This act provides that in the hosiery manufacture no stoppages of wages shall be made for any reason except bad workmanship; that the renting or charging for the use of frames is prohibited; and that workingmen shall be subject to a penalty of 10s. (\$2.43) per day for using a frame or machine of their employer for the manufacture of goods for any other person without the written consent of the owner of the frame or machine.

In addition to the acts enumerated a number of other laws have been passed having for their purpose the regulation of certain other matters in relation to wages. The most important of these relate to particulars of work and wages.

Acts to insure that, where workingmen are paid by the amount of work performed, an honest measure of the work done shall be made by the employer were among the earliest acts in relation to labor. Most of these acts were repealed in 1824 by 5 Geo. IV, c. 95, and others were repealed in the same year by 5 Geo. IV, c. 96. This act related primarily to the arbitration of disputes between employers and employees, and as such provided for the settlement of disagreements regarding prices agreed upon, deductions for imperfect work, etc. Of special interest from the present standpoint, however, was the provision that, when the parties so agreed, the employer should furnish a note or ticket of particulars showing the nature of the work and the agreement in regard to its execution that should be evidence regarding all matters to which it related. In 1845 this act was amended by the act of 8 and 9 Vict., c. 77, in the important particulars that the giving of the ticket containing the particulars of the agreement was made obligatory when piecework was given out to be done in certain textile industries. In the same year the act of 8 and 9 Vict., c. 128, made somewhat similar provisions concerning the silk weaving industry.

The most important provisions regarding particulars of wages, however, are to be found in the factory acts. The factory and workshop act of 1891 contained a section imposing upon occupiers the obligation of supplying particulars of work in certain lines of employment which was performed according to the piece system. This section was repealed by the act of 1895, and in its place was enacted a section making much



more elaborate provisions concerning this subject. This section provides that in every textile factory the occupier shall, for the purpose of enabling each worker who is paid by the piece to compute the total amount of wages payable to him in respect of his work, cause to be published particulars of the rate of wages applicable to the work to be done, and also particulars of the work to which that rate is to be applied, as follows:

1. The particulars of the rate of wages applicable to the work to be done by each weaver in the worsted and woolen, other than the hosiery, trades shall be furnished to him in writing at the time when the work is given out to him, and shall also be exhibited on a placard not containing other matter and posted in a position where it can be easily read.

2. The particulars of the rate of wages applicable to the work to be done by each worker, other than such a weaver as aforesaid, shall be furnished to him in writing at the time when the work is given out to him; provided, that if the same particulars are applicable to the work to be done by each of the workers in one room, it shall be sufficient to exhibit them in that room on a placard not containing any other matter, and posted in a position where it can be easily read.

3. Such particulars of the work to be done by each worker as affect the amount of wages payable to him shall, except so far as they are ascertainable by an automatic indicator, be furnished to him in writing at the time the work is given out to him.

4. The particulars, either as to rate of wages or as to work, shall not be expressed by means of symbols.

5. Where an automatic indicator is used for ascertaining work, such indicator shall have marked upon its case the number of teeth in each wheel, and the diameter of the driving roller, except that in the case of spinning machines with traversing carriages, the number of spindles, and the length of the stretch in such machines, shall be so marked in substitution for the diameter of the driving roller.

6. Where such particulars of the work to be done by each worker as affect the amount of wages payable to him are ascertained by an automatic indicator, and a placard containing the particulars as to the rate of wages is exhibited in each room, in pursuance of an agreement between employers and workmen and in conformity with the requirements of this section, its exhibition shall be a sufficient compliance with the law.

If the occupier fails to comply with the above requirements, or fraudulently uses a false indicator for ascertaining the particulars or amount of any work paid for by the piece, or if any workman fraudulently alters an automatic indicator, the occupier or workman, as the case may be, shall be liable for each offense to a fine of not more than £10 (\$48.67), and in case of a second or subsequent conviction within two years from the last conviction for that offense, not less than £1 (\$4.87).

If anyone engaged as a worker in any factory or workshop, having



received such particulars, whether they are furnished directly to him or to a fellow-workman, discloses the particulars for the purpose of divulging a trade secret, he shall be liable to a fine not exceeding £10 (\$48.67). If anyone for the purpose of obtaining knowledge of or divulging a trade secret solicits or procures a person so engaged in any factory to disclose such particulars, or with that object pays or rewards any such person, or causes any such person to be paid or rewarded for so disclosing such particulars, he shall be liable to a fine not exceeding £10 (\$48.67).

The secretary of state can, on being satisfied by the report of an inspector that the above provisions are applicable to any class of non-textile factories, or to any class of workshops, order such provisions to apply to such class, subject to such modifications as in his opinion are necessary to adapt them to the circumstances of the case.

In still another direction legislation for the protection of workingmen in respect to the receipt of their wages has been found necessary. The payment of wages in a saloon, or where intoxicating liquors were sold, was prohibited in the coal and metal mining industry in 1872. In 1883 this prohibition was extended to all workingmen by the act of 46 and 47 Vict., c. 31. This act applies to "any person who is a laborer, servant in husbandry, journeyman, artificer, handicraftsman, or who is otherwise engaged in manual labor," but does not relate to miners in regard to whom special legislation exists, nor to domestic or menial servants. It provides that "no wages shall be paid to any workman at or within any public house, beer shop, or place for the sale of any spirits, wine, cider, or other spirituous or fermented liquors, or any office, garden, or place belonging thereto, or occupied therewith, save and except such wages as are paid by the resident owner or occupier of such public house, beer shop, or place to any workman bona fide employed by him." The penalty for infraction of this law is a fine not exceeding £10 (\$48.67) for each offense.

#### ARBITRATION TRIBUNALS.

The first act in favor of arbitration as a mode of settling disputes was passed in 1603. (a) The first act, however, having reference specially to the arbitration of labor disputes, is given as that of 1 Anne, St. II, c. 22, passed in 1701, and provided for the reference of certain matters in certain textile and metal trades to two justices of the peace as arbitrators. Numerous other acts followed. In 1824 all of these acts were repealed and replaced by the general act of 5 Geo. IV, c. 96, entitled "An act to consolidate and amend the laws relating to the arbitration of disputes between masters and workmen." This very important law made provision for a general scheme of arbitration applicable to all branches of industry. Arbitrators were to be suggested by the justice of the peace, one-half of whom were to be

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<sup>a</sup> Howell, Handy-Book of the Labor Laws, p. 229.



employers and the other half workingmen. From this body each party to the dispute was to select a referee, with full powers of hearing and determining the matter at issue. In case of failure to agree the justice of the peace could, in the last resort, decide the matter.

But little use was made of the provisions of the foregoing law. The next important act along these lines was that of 35 and 36 Vict., c. 46, passed in 1872, and intended as an amendment to the act of 1824. Its purpose was to make the law more comprehensive, provide for simpler machinery, and to introduce the principle of conciliation. In the meantime, efforts to provide a workable system for the adjustment of labor disputes had been made in another direction. In 1867 was passed the Lord St. Leonards' act, 30 and 31 Vict., c. 105, the purpose of which was to foster the growth in Great Britain of councils of conciliation, something after the pattern of the French councils of prudhommes.

Though more or less was accomplished under these laws they can not be said to have proven effective measures. In 1896 Parliament, therefore, repealed all those acts and in their place substituted the conciliation act of August 7, 1896, 59 and 60 Vict., c. 30, which is now in force. As this act is brief it is here reproduced in full:

AN ACT to make better provision for the prevention and settlement of trade disputes  
[7th August, 1896].

Be it enacted by \* \* \* Parliament assembled, and by the authority of the same, as follows:

Any board established either before or after the passing of this act, which is constituted for the purpose of settling disputes between employers and workmen by conciliation or arbitration, or any association or body authorized by an agreement in writing made between employers and workmen to deal with such disputes (in this act referred to as a conciliation board), may apply to the board of trade for registration under this act.

The application must be accompanied by copies of the constitution, by-laws, and regulations of the conciliation board, with such other information as the board of trade may reasonably require.

The board of trade shall keep a register of conciliation boards and enter therein, with respect to each registered board, its name and principal office and such other particulars as the board of trade may think expedient, and any registered conciliation board shall be entitled to have its name removed from the register on sending to the board of trade a written application to that effect.

Every registered conciliation board shall furnish such returns, reports of its proceedings, and other documents as the board of trade may reasonably require.

The board of trade may, on being satisfied that a registered conciliation board has ceased to exist or to act, remove its name from the register.

Subject to any agreement to the contrary, proceedings for conciliation before a registered conciliation board shall be conducted in accordance with the regulations of the board in that behalf.

Where a difference exists or is apprehended between an employer, or any class of employers and workmen, or between different classes of



workmen, the board of trade may, if they think fit, exercise all or any of the following powers, namely:

1. Inquire into the causes and circumstances of the difference;
2. Take such steps as to the board may seem expedient for the purpose of enabling the parties to the difference to meet together, by themselves or their representatives, under the presidency of a chairman mutually agreed upon or nominated by the board of trade, or by some other person or body, with a view to the amicable settlement of the difference;
3. On the application of employers or workmen interested, and after taking into consideration the existence and adequacy of means available for conciliation in the district or trade and the circumstances of the case, appoint a person or persons to act as conciliator or as a board of conciliators;
4. On the application of both parties to the difference, appoint an arbitrator.

If any person is so appointed to act as conciliator, he shall inquire into the causes and circumstances of the difference by communication with the parties and otherwise shall endeavor to bring about a settlement of the difference, and shall report his proceedings to the board of trade.

If a settlement of the difference is effected either by conciliation or by arbitration, a memorandum of the terms thereof shall be drawn up and signed by the parties or their representatives, and a copy thereof shall be delivered to and kept by the board of trade.

The arbitration act, 1889, (*a*) shall not apply to the settlement by arbitration of any difference or dispute to which this act applies; but any such arbitration proceedings shall be conducted in accordance with such of the provisions of the said act, or such of the regulations of any conciliation board, or under such other rules or regulations as may be mutually agreed upon by the parties to the difference or dispute.

If it appears to the board of trade that in any district or trade adequate means do not exist for having disputes submitted to a conciliation board for the district or trade, they may appoint any person or persons to inquire into the conditions of the district or trade and to confer with the employers and employed, and, if the board of trade think fit, with any local authority or body as to the expediency of establishing a conciliation board for the district or trade.

The board of trade shall from time to time present to Parliament a report of their proceedings under this act.

The expenses incurred by the board of trade in the execution of this act shall be defrayed out of moneys provided by Parliament.

The masters and workmen arbitration act, 1824, and the councils of conciliation act, 1867, and the arbitration (masters and workmen) act, 1872, are hereby repealed.

This act may be cited as the conciliation act, 1896.

The significant features of the foregoing law, it will be noticed, are the official standing given to voluntary boards of arbitration and conciliation through registration, the keeping of records, etc., and the power given to the board of trade to create such boards where they do not exist, and itself actively to intervene where it deems such action advisable to determine the causes and circumstances of the dispute and to take steps for its adjustment. It should be noted that, in addi-

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*a* A law relating to the arbitration of disputes generally.



ion to the above general law, there are provisions in other special acts by which disputes arising in connection with matters to which the acts relate can be settled by arbitration. There are such provisions in the friendly societies, the trade unions, and other acts. The recent workmen's compensation act, 1897, contains elaborate provisions by which matters arising under it can be settled by arbitration. They in no case, however, relate to the arbitration of labor disputes, or strikes, technically speaking.

#### DEPARTMENT OF LABOR, BOARD OF TRADE.

The first definite action looking to the creation of a special service for the collection of statistics of labor was taken in 1886. In March of that year the House of Commons resolved that "in the opinion of this House steps should be taken to insure in this country the full and accurate collection and publication of labor statistics." In pursuance of this resolution a special service for that purpose was organized by the board of trade, under the direction of an officer styled "labor correspondent." In 1893 a separate service entitled "labor department" was created under the board of trade to continue and extend the work hitherto carried on by the labor correspondent. The labor department is now organized is under the direction of a "commissioner for labor," and its duties are similar to the labor departments of other countries.

#### FRANCE. (a)

In giving an account of the labor legislation of France, it is rarely necessary to refer to laws enacted prior to the present century. No considerable part of existing legislation has been enacted since the establishment of the present Republic.

France definitely broke with the past as regards the policy of the state toward industry in 1789, when the Constituent Assembly on August 4 of that year declared the suppression of all privileges and monopolies. The purpose and effect of this action was the abolition

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a In the summary here given of the laws in France, use has in all cases been made of copies of the laws themselves. These can be easily consulted in—

Lois sociales: Recueil des textes de la législation sociale de la France, par Joseph Chailley-Bert et Arthur Fontaine. Paris, 1895.

Bulletins de l'Office du Travail.

In addition to these two sources special use has been made of the following works:

Le code ouvrier: Exposé pratique de la législation et de la jurisprudence réglant le travail et les intérêts des ouvriers et apprentis, par Louis André et Léon Guibourg, 2<sup>e</sup> édition. Paris, 1898.

Traité élémentaire de législation industrielle, par Paul Pic. Paris, 1894.

La législation du travail en France, par Paul Pic. A report made to the Congrès international de Législation du Travail, à Bruxelles, 1897.

Enquête sur les législations relatives au droit d'association. Circulaires Nos. 21 and 22. Série A. Musée Social, Paris, 1898.

Various publications of the French Labor Bureau, notably the reports, Conciliation et arbitrage en France et à l'étranger, 1893, and Hygiène et sécurité des travailleurs dans les ateliers industriels, 1895.



of the old guild system. The principle of industrial liberty was still more emphatically stated by the decree of March 2-17, 1791, which provides that every person shall be free to engage in such an enterprise or exercise such profession, art, or trade as he may desire.<sup>(a)</sup>

### THE LABOR CONTRACT.

There is but little positive legislation in relation to the labor contract. The civil code contains a few general provisions which are chiefly of the nature of definitions. Slavery is prohibited by a clause which forbids a person from engaging his services for life. There are a number of laws regarding the labor contract in special industries, as railway transportation, which fall without the scope of the present report. The only law that needs to be specially mentioned is that of July 1890, abolishing the obligation of all workingmen to be provided with pass books. The last two articles of this law provide: (1) That the labor contract is subject to the ordinary rules of common law concerning contracts, and can be made in such a form as the parties desire; and (2) that any person who hires out his services can, at the expiration of the contract, require his employer to furnish him with a certificate showing exclusively the date of his entrance into his service, the date of his departure, and the nature of the work at which he was employed.

### RIGHT OF ASSOCIATION: TRADE UNIONS.

The general law regulating the right of association is contained in articles 291 and 292 of the penal code of 1810 and the law supplementing them passed April 10, 1834. These laws prohibit the formation of any organization of more than 20 members unless the consent of the Government has been obtained, and the latter has the power arbitrarily to grant or refuse application, impose conditions, or revoke permission when granted, as it deems fit.

These provisions as regards particular categories of associations have been modified by special laws. Such are the laws of June 21, 1864, and December 22, 1888, regarding associations of proprietors for performing work of mutual interest; the law of July 12, 1875, concerning associations for higher education, and certain laws in respect to organizations of employers and employees. It is of the latter alone that account need here be taken.

Trade organizations have always during the present century been put upon a special footing by the French law. The suppression of the guilds in 1791 was almost immediately followed by the development of voluntary organizations of employers and workingmen. The Constituent Assembly, which had in the same year decreed liberty to work, sa

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<sup>a</sup> This liberty is restricted by laws relating to the practice of medicine and certain other professions, and by the law of August 8, 1893, which requires all foreigners to register at the mayor's office before engaging in any industrial or commercial work.



by danger in these organizations. It, therefore, passed the law of June 14-17, 1791, which absolutely prohibited persons, whether employers or employees, connected with the professions, arts, or trades, from holding deliberations "or from making agreements among themselves to refuse or to accord only for certain prices the assistance of their industry and their work." Under this law both the temporary coalition and the formation of permanent organizations by employers and workingmen were forbidden.

The prohibition of the formation of organizations continued, with the exception of a brief period following the revolution of 1848, until 1884. It should be said, however, that the Government was very tolerant in the enforcement of this law, and many organizations developed, especially after 1860.

As regards temporary coalitions, or strikes and lockouts, the penal code punished such actions on the part of employees much more severely than if committed by employers, who, in fact, were only punishable if unjust or abusive. A law passed November 27, 1849, removed this discrimination and declared that the formation of a coalition, whether by workingmen or employers, was a crime subjecting every person participating in it to imprisonment for from 6 days to 3 months and to a fine of from 16 to 10,000 francs (\$3.09 to \$1,930) and the leaders to imprisonment for from 2 to 5 years.

Protests against this law led finally to the enactment of the law of May 25, 1864, which repealed the laws against coalitions and in their place substituted provisions granting the right to employers and employees to form combinations for the purpose of improving their conditions, but making it an offense punishable by fine and imprisonment to use threats or violence in carrying out their purpose. Action, indeed, was restricted to such an extent as almost to render nugatory the permission to form coalitions that had been granted.

This law was amended by the law of March 21, 1884, which had as its purpose the granting of greater freedom in respect to the formation both of coalitions and of permanent organizations. The unrepealed part of the act of 1864 and the act of 1884 constitute the law now in force regarding these two subjects. A statement of their important provisions follows.

Articles 414, 415, and 416 of the penal code (prohibiting coalitions) were repealed by the law of May 25, 1864, and in their place are substituted the following provisions:

Whoever by threats, violence, or fraudulent maneuvers has brought about or maintained or has attempted to bring about or maintain a concerted cessation of labor with the object of compelling an increase or diminution of wages, or an infringement of the free exercise of industry or labor, shall be punished by an imprisonment of from 6 days to 3 years, or a fine of from 16 to 3,000 francs [\$3.09 to \$579], or both. If the offense above described is committed in consequence of a concerted plan, the guilty parties can be placed, by order or judgment (*arrêt ou jugement*), under the surveillance of the police during not less than 2 nor more than 5 years.



Following are the more important provisions of the law of March 2 1884:

Trade unions or industrial associations (*syndicats ou associations professionnelles*), including those having more than 20 members of the same similar, or allied trades, may be freely organized without obtaining governmental authorization.

These industrial associations must have for their exclusive object the study and protection of the economic, industrial, commercial, and agricultural interests.

The founders of any industrial association must deposit with the mayor of the locality, or in Paris with the prefect of the Seine, a copy of the constitutions and the names of all who, under any title whatever, are charged with its administration or direction. This deposit must be renewed whenever a change is made in the administration or in the constitutions.

These constitutions must be communicated by the mayor or the prefect of the Seine to the attorney (*procureur*) of the Republic.

All members of industrial associations who are charged with the administration or direction of the latter must be Frenchmen, and must be in the enjoyment of civil rights.

Industrial associations regularly constituted in accordance with the present law may freely form federations for the study and protection of their economic, industrial, commercial, and agricultural interests. The federations must report, as above specified, the names of the associations composing them. They can not possess real estate, nor have the same any status in court.

Industrial associations of employers or of workingmen have a status in court. They may make use of funds derived from dues or assessments, but can not acquire real estate other than what may be necessary for their meetings, libraries, or for technical instruction.

They may institute among their members, without authorization, special funds for mutual aid or old-age pensions, provided it is in conformity with other provisions of law.

They are free to create and carry on employment bureaus. They may be consulted in case of disputes and any questions relating to the special line.

In case of disputes, their advice may be placed at the disposition of all parties, who may take note thereof and make copies.

Any member of an industrial association may withdraw at any time notwithstanding any clause to the contrary, but without prejudice to the right of the association to recover the dues for the current year. Any person who resigns his membership in an association retains the right to continue as a member of any mutual-aid or old-age pension societies toward which he has contributed either in the form of dues or of other payments.

When property has been acquired in contravention of law the nullity of the purchase or gift may be claimed by the attorney of the Republic or by the parties interested. In case of purchase burdened with certain conditions, the real property must be sold and the proceeds deposited in the association's treasury. In the case of gifts, they are returned to the donors, or their heirs, or administrators.

Directors or officers may be held liable for infractions of the law regarding industrial associations, the penalty being a fine of from 16 to 200 francs [\$3.09 to \$38.60]. The court may also, at the instance of the attorney of the Republic, order the association dissolved, and may



cancel the purchase of any property contrary to this act. The fines may be increased to 500 francs [\$96.50] in cases of false declarations regarding the constitution or the names or qualities of the officers or directors.

By a decree of June 4, 1888, the Government fixed the conditions under which associations of workmen might in their collective capacity bid upon, and, if successful, perform, contracts for the performance of work or furnishing of supplies for the central government. On July 29, 1893, a law was passed giving to the associations of workmen the same privilege as regards the public work of the communes. In addition to the above legislation a law was passed March 14, 1872, directed specially against the International Workingmen's Association. This law, which is still in force, declares that "every international association, which, under any title, and especially that of the International Workingmen's Association, has as its object the suspension of labor or an attack upon the right of property, the family, the country, religion, or the free exercise of religious beliefs, shall by the mere fact of its existence and of its ramifications upon French territory be an offense against the public peace." Affiliation with such an organization is punishable by imprisonment of from 3 months to 2 years, a fine of from 50 to 1,000 francs (\$9.65 to \$193), and suspension from civil and certain other rights for from 5 to 10 years. This penalty can be increased in the case of persons convicted of holding any office, or actively assisting in any function in the development of such an organization or in the propagation of its doctrines. Connivance in its work in any way, such as by renting a room in which meetings of the association or its branches are to be held, is also a punishable offense.

#### APPRENTICESHIP.

As one of the consequences of the abolition of the guild system in 1791, the apprenticeship contract was made one to be settled by the parties themselves. This liberty was soon abused, and it became necessary to enact legislation to take the place of the old regulations which had been abolished. The first law of this character was that of Germinal, An XI, having for its purpose the protection of apprentices against certain abuses of power on the part of their masters. This law was replaced by the much more elaborate enactment of February 22, 1851. The latter in turn was modified in certain points of detail by the law of May 19, 1874, concerning the employment of children, and again more materially by the law of November 2, 1892, which repealed the law of 1874.

The two fundamental laws relating to apprentices now in force are, therefore, the laws of 1851 and 1892. The former contains provisions concerning the apprenticeship contract generally and those regulating the conditions of apprenticeship in commercial establishments, stores, offices, etc. The latter merely supersedes the former in regard to the age at which apprentices can be employed, their hours of labor, etc., in



industrial or manufacturing concerns. Following are the principal features of the apprenticeship law.

The apprenticeship contract is defined by the law to be one by which a manufacturer, the head of an industrial establishment, or a workingman obligates himself to instruct another person in the practice of his trade, who in turn binds himself to work for the former for the period and under the conditions agreed upon.

The contract can be made either in writing by public act or under private signature, or orally. In case the sum in dispute as the result of any infraction of the contract, however, is more than 150 francs (\$28.95), the contract must be proved by a written document. The written contract should be signed by the master and the representative of the apprentice, and should contain the name, age, and residence of the apprentice; the name, age, residence, and occupation of the master and of the parents or guardian of the apprentice, or a person authorized by the parents, or in the absence of any such person, by the justice of the peace; the date and duration of the contract, and the conditions regarding lodging, food, and any other stipulations entered into by the parties.

In general, any adult person exercising a trade in which apprenticeship is practicable has the right to have apprentices, subject only to the exceptions that will be given. A workingman, as well as an employer, can have apprentices, provided he works for himself and fulfills the conditions required by the law concerning his ability to give proper instruction, and exercises the proper oversight. A minor engaged in a commercial pursuit can have an adult but not a minor apprentice. The following persons are debarred from having apprentices, viz, those who have been convicted of a crime or of an attempt against good morals, or who have been condemned to more than 3 months' imprisonment for certain misdemeanors. This incapacity can be removed, on the recommendation of the mayor, by the prefect, or, in Paris, by the prefect of police, if the convicted person has resided in the same commune for 3 years after the expiration of his term of imprisonment.

An unmarried man or widower can not permit minor females or apprentices to lodge at his house.

The duties of a master toward his apprentice are to conduct himself as a good father toward the latter, to watch over his conduct and habits, either at home or outside, and to instruct him in the art or trade which was the object of the contract. He must inform his parents or guardian of any grave offenses that the apprentice may commit, or of any vicious tendencies that he may manifest, or in case he is ill, absent himself, or commits any act requiring their intervention. Unless otherwise agreed upon, an apprentice must not be employed upon work that does not pertain to his trade, nor shall he be given work injurious to his health or beyond his strength.



The duration of actual labor must not exceed 10 hours per day for apprentices under 14 years of age, nor 12 hours for those from 14 to 16 years of age. No work at night, or from 9 p. m. to 5 a. m., can be required of apprentices under 16 years of age. No modifications of these provisions can be made except by the prefect, upon the recommendation of the mayor. No work can be required of apprentices on Sundays and legal holidays, except where by virtue of special stipulations in the contract or general usage they can be employed on those days in putting the shop in order, in which case such work must not continue after 10 a. m.

If an apprentice under 16 years of age can not read, write, or figure, or if he has not completed his first religious education, his master must give him liberty and time, which need not exceed 2 hours daily, in which to complete his education in these particulars.

At the end of the term of apprenticeship the master must give the apprentice a release or a certificate setting forth the execution of the contract.

The duties of the apprentice toward his master are those of fidelity, obedience, respect, and the performance of his work according to his full aptitude and strength. At the end of his apprenticeship he must make up for any time lost on account of sickness or absence, if of over 5 days' duration.

The apprenticeship contract can be terminated at any time by the agreement of both parties, or at the will of either party during the first two months of the contract, which are considered as a probationary period. The contract is terminated by the death of either party, or if the master or apprentice is summoned for military service, or if the master is convicted of any of the crimes disqualifying him from having apprentices, or, in the case of a female minor lodging at the house of her master, on the death of the master's wife or any other female head of the family who directed the household at the time of the contract.

Finally, the contract can be annulled through judicial procedure by either party: If the stipulations of the contract are broken; if the provisions of the apprenticeship law are seriously and habitually violated; if the apprentice habitually misconducts himself; if the master removes to another commune, in which case, however, the contract is not voidable until 3 months after the date of the removal; if either party is convicted of an offense involving imprisonment for more than a month; and if the apprentice marries. If the duration of the term of apprenticeship agreed upon exceeds that sanctioned by the local customs, it can be reduced or the contract can be annulled.

Any manufacturer, superintendent, or workman convicted of persuading an apprentice unlawfully to break his contract, in order that he may employ him as apprentice or workman, can be held liable for all or part of the indemnity that may be obtained by the master who has been abandoned.



The adjudication of disputes arising in relation to apprenticeship contracts is made by the council of prudhommes, or, where there is no such body, by the justice of the peace of the canton. Violations of the provisions of the law regarding the disabilities of masters to have apprentices, the limitation of the working time of apprentices, or the giving to them of time for study are prosecuted before the police tribunal, and conviction involves a fine of from 5 to 15 francs (\$0.97 to \$2.90). Upon a repetition of the offense, the penalty can be augmented by imprisonment for 5 days, and where the second or subsequent violation is in reference to the law regarding the disability of masters to have apprentices consequent upon their having been convicted of a crime or of violating public morals, as above described, the master can be prosecuted before the bureau of correction and punished by imprisonment for from 15 days to 3 months and the payment of a fine of from 50 to 300 francs (\$9.65 to \$57.90).

The foregoing provisions apply to apprentices in both commercial and manufacturing establishments, with the exception that the hours of labor, the age at which they can be employed, etc., of apprentices in the latter class of works are regulated by the factory act of 1892, the provisions of which are given elsewhere.

#### HISTORY OF FACTORY LEGISLATION.

If exception be made of certain decrees and ordinances concerning dangerous and unhealthy establishments, made in the interest of the public health, the first act passed by France in relation to the conditions of labor in factories was that of March 22, 1841. This law, entitled "An act in relation to the employment of children in factories, mills, and workshops," was an advanced measure for that period. In it were embraced, at least in principle, most of the features contained in modern factory legislation. It, however, was never enforced except in the feeblest manner. With the exception of one or two departments, its provisions were almost wholly disregarded.

The Republic of 1848 was marked by renewed activity in the enactment of social legislation. Its most important action in the direction of the regulation of industrial work was the decree of March 2, 1848, by which the radical step was taken of limiting the hours of labor of adult males. By it the maximum duration of a day's labor was fixed at 10 hours for Paris and 11 hours elsewhere in France. This decree was succeeded by the law of September 9, 1848, which is still in force. By it, though the principle of the regulation of adult labor was left untouched, its application was limited to factories and workshops, as regulated by the factory act of 1841. The maximum hours of labor that could be worked by employees in these establishments was changed to 12 for all France. This law, like that of 1841, remained practically a dead letter for want of officials to supervise its execution until 1883, when a law, passed February 16 of that year, made its enforcement a part of the duties of the factory inspectors.



In the meantime the factory act of 1841 remained unchanged, and was seldom enforced during a period of over 30 years. The Third Republic, however, as one of its first measures of labor legislation, enacted the law of May 19, 1874, by which the system of factory legislation was thoroughly reorganized, and means, though inadequate, provided for its enforcement.

Although this law constituted a great advance over the one it replaced, it presented defects and omissions that became more prominent as production upon a large scale developed. The constantly growing demand for the further restriction of the employment of women and children, the maintenance of better hygienic conditions in factories, and the provision of more effective means for preventing accidents, led finally to its repeal and the enactment in its place of the law of November 2, 1892, which is now in force. This law was supplemented in the following year by the act of June 12, 1893, in relation to the hygiene and security of workers in industrial establishments. Together these two acts give to France a code of laws for the regulation of factory and workshop labor comparable with those of other European nations.

In the following paragraphs are given (1) a statement of the law of 1848 regarding the hours of labor of adult males, and (2) a summary of the provisions of the acts of 1892 and 1893. It is to be understood that all three of the acts are completed and much amplified by official decrees and orders issued in virtue of their provisions.

#### HOURS OF LABOR OF MALE ADULTS.

The act of September 9, 1848, in relation to the hours of labor of male adults is a very brief one, and makes the following provisions: (1) The hours of effective labor of employees in factories and workshops (*a*) shall not exceed 12 per day; (2) the Government shall have the power to designate by order those industries which by reason of the nature of the industry, or causes beyond control, should be exempt from the provisions of this act; and (3) the penalty for violating the act shall be a fine of from 5 to 100 francs (\$0.97 to \$19.30). By virtue of the power given to it, as above described, the Government has, by decrees dated May 17, 1851, January 31, 1866, and April 3, 1889, enumerated a number of industries and kinds of work which are exempt from the provisions of this law. The enforcement of the law is made by the act of 1892 a part of the duties of the ordinary factory inspectors.

#### EMPLOYMENT OF WOMEN AND CHILDREN.

The act of 1892 applies to "all labor of children, female minors, and women in workshops, factories, mines, quarries, yards, or premises belonging to the same, of whatever nature, whether public or private,

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*a* An official circular dated November 25, 1885, defines the expression *usines et manufactures*, as here used, to include all establishments making use of a mechanical power or continuous fire, and every industrial establishment employing more than 20 persons in the same place.



lay or ecclesiastical, or whether the establishment is industrial or philanthropic in character." The only exception is labor performed in establishments where none but members of the family are employed, under the direction of the father, mother, or guardian, and no steam or other mechanical motive power is used, and which are not classed as dangerous or unhealthy.

No child under 12 years of age can be employed or admitted in any establishment embraced under the provisions of the act. No child under 13 years of age can be employed unless provided with a certificate of primary education in accordance with the education law of March 23, 1882, and a certificate of physical fitness from a duly authorized examining physician.

A factory inspector may also at any time require any child under 16 years of age to be examined for the purpose of ascertaining whether the work given to it to perform is too great for its strength, and in case he finds such to be the case he can order such employment to be discontinued.

In orphan asylums and philanthropic institutions where primary instruction is given, no child under 13 years of age, except children 12 years of age who are provided with certificates of primary instruction, can be occupied more than 3 hours per day in receiving manual and technical training.

No child under 16 years of age can be employed at actual labor for more than 10 hours per day; and no child from 16 to 18 years of age can be employed at actual labor for more than 11 hours per day or 60 hours per week. In all cases the labor period must be broken by one or more intermissions for rest, the total duration of which must be not less than 1 hour.

In order to facilitate the execution of the law the act provides that each child under 18 years of age, as a condition to employment, must be provided with a pass book (*livret*) showing his or her name, age, place of birth, and present address. If the child is under 13 years of age it must also show that the owner has received a certificate of primary education. This book must be furnished gratuitously by the mayors to the parents or guardian of the child. Upon the child accepting employment the book must be given into the hands of the employer, who must enter in it the dates at which the child enters and leaves his service.

A special clause of the act provides that no child under 13 years of age can be employed as an actor, supernumerary, etc., at public exhibitions given in theaters or music halls. The minister of public instruction and fine arts at Paris and the prefects in the departments can, however, grant special permission for such employment in exceptional cases. The employment of children under 16 years of age as professional beggars, acrobats, and the like in strolling theatrical companies is prohibited by the special law of December 7, 1874.



No woman over 18 years of age can be employed at actual labor for more than 11 hours per day, broken by one or more intervals of rest of a total duration of at least 1 hour.

Women and children can not be employed in unhealthy or dangerous establishments where the laborer is exposed to operations or emanations detrimental to health, except under special conditions, as determined by regulations of the Government. The Government is also given the power to forbid absolutely, by order, the employment of women and children in work involving danger, a too great expenditure of strength, or influences prejudicial to morality.

#### NIGHT WORK.

The general rule regarding night work, or labor between the hours of 9 p. m. and 5 a. m., is that no person under 18 years of age, and no woman, can be so employed. To this general rule the law provides for the following exceptions:

1. Work is permitted between the hours of 4 a. m. and 10 p. m. when it is performed by means of two shifts, neither of which exceeds 9 hours broken by a rest of at least 1 hour's duration.

2. The Government can designate by order certain industries in which women over 18 years of age can be employed, according to the conditions set forth in the order, until 11 o'clock at night at certain times during the year. This permission can not be for more than 60 days during the year, and in no case can a woman be permitted to work more than 12 hours per day. This exemption has chiefly in view seasonal work.

3. The Government has also the power to designate by order those industries which shall be permanently exempt from the restrictions regarding night work, but the work can in no case exceed 7 hours in the 24.

4. The Government can in the same way grant a temporary exemption to specified industries.

5. Finally, any inspector can grant to particular establishments temporary exemptions for a definite period of time when work has been interrupted by an accident or causes beyond control.

#### SUNDAY AND HOLIDAY LABOR.

Children under 18 years of age and women can not be employed for more than 6 days per week, nor on holidays recognized by law. A notice must be posted by the employer showing the day adopted as the weekly day of rest. The law of 1874 made obligatory the selection of Sunday as this day. Under the present law any day agreed upon by the employer and his employees can be selected. It is not even necessary that all the employees should have the same day. The legal holidays are Christmas, New Year's, Ascension Day, Assumption Day, All Saints Day, Easter Monday, Pentecost Monday, and the national holiday of July 14.



To the above regulation there are permitted the following exceptions:

1. In establishments where continuous fires must be maintained, adult women and male children may be employed at night during every day of the week at labor which is indispensable, on condition that each one has at least 1 day of rest per week. The work permitted and the length of time during which it can be executed must be fixed by order of the Government.

2. In those industries designated by the order of the Government, the division inspector of factories can grant a temporary exemption similar to that mentioned above.

#### **KEEPING REGISTERS, POSTING REGULATIONS, ETC.**

All employers of children under 18 years of age must keep a register in which is entered the information contained in the children's pass books.

Employers of labor or renters of motive power are required to keep posted in their shops copies of the provisions of this act, of the orders of the Government for its administration, and of the regulations that particularly concern their industries, and a list of the names and addresses of the inspectors of their districts.

A notice must also be posted showing the hours of beginning and ending work and the duration of the intervals of rest. One duplicate of this notice must be sent to the inspector of the district, and another be deposited at the mayor's office.

In all places of work, orphan asylums, and charitable or benevolent workshops belonging to religious or lay establishments there must be posted a permanent and legible bulletin, countersigned by the inspector, showing the provisions of the law regarding child labor, the hours of labor, intervals of rest, and hours for study and meals. A list must also be furnished quarterly to the inspector, certified by the principals, of all children who are inmates of the above-named establishments, showing their full names and dates and places of birth.

#### **REPORTING AND INVESTIGATION OF ACCIDENTS.**

Every accident occurring in an establishment subject to the law of 1892 which results in an injury (*a*) to one or more workmen must be reported by the employer within the next 48 hours to the mayor of the commune. This notice must contain the names and addresses of the witnesses to the accident, and have attached to it a certificate of a physician, to be procured by the employer, showing the nature and probable effects of the injury and the time when it will be possible to know the definite results.

Upon the receipt of this notice the mayor must make an investigation of the accident in a manner to be determined by an order of the

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*a* A decree issued November 20, 1893, defines accidents that should be reported as those causing the victim to be unable to work for 3 or more days.



government. The mayor must also acknowledge the receipt of the notice, and likewise inform the divisional or departmental inspector of the occurrence of the accident.

### INSPECTION OF FACTORIES.

Undoubtedly one of the most important features of the act of 1892 was that whereby provision was made for the first time for an effective system of factory and workshop inspection. Under the law of 1874 the division inspectors were appointed by the central government, the selection of the departmental inspectors being left to the departments, which might or might not make such provision as they deemed desirable. This defective system was radically changed by the law of 1892. Provision is there made for a corps of factory inspectors, wholly dependant upon the central government, consisting of division and departmental inspectors appointed by the minister of commerce and industry. Their number, salaries, and districts are determined by decrees issued upon the recommendation of the committee of arts and manufactures and the superior council of labor—a body created by this act.

The departmental inspectors are under the authority of the division inspectors and can be either male or female. All inspectors must make oath that they will not reveal any secrets of manufacture or, in general, any operations that may come to their notice in the exercise of their functions.

No person can be appointed an inspector until he has successfully passed the competitive examination held for that purpose by the superior council of labor. Definite appointment is not made until after a probationary period of one year has been served.

The inspectors are specifically given the duty of enforcing not only the act of 1892, providing for their appointment, but also the act of September 9, 1848, in relation to the hours of labor of adults, and the act of December 7, 1874, in relation to the employment of children in traveling shows. When the act of June 12, 1893, was passed in relation to the hygiene and security of workingmen, its enforcement was likewise intrusted to these officials. In all matters, however, that concern mines and quarries the execution of the laws is intrusted exclusively to the corps of mining engineers, who for this service are placed under the authority of the minister of commerce and industry.

In the performance of their duties inspectors have the right to enter all establishments coming under the provisions of the law of 1892 and to inspect the different registers, shop regulations, and employee's pass books and certificates of physical fitness. All contraventions of the law reported by the inspectors shall be considered as proved until the contrary is shown. These reports of infractions of the law must be made in duplicate, one copy being sent to the prefect of the department and the other filed in the office of the public prosecutor. The above provisions do not modify in any way the common law regarding accusations and prosecutions for violations of the law.



The inspectors are also given the duty of preparing statistics showing the condition of industrial labor in their districts. A general report giving a summary of the reports of inspectors must be published annually under the direction of the minister of commerce and industry.

#### ADVISORY COMMISSIONS.

As an additional means of securing not only the proper enforcement of the provisions of the law, but also information concerning modifications that experience might show to be desirable, provision is made in the act for the constitution of three advisory commissions or councils.

The first of these bodies, which is designated as the superior commission of labor, consists of 9 persons—2 senators and 2 deputies, elected by their colleagues, and 5 members appointed by the President of the Republic. This body, which serves without pay, was established to assist the minister of commerce and industry, and is specially charged with the following duties: (1) To see that the law is uniformly and properly enforced; (2) to advise in regard to the making of regulations and orders, and generally in regard to questions having to do with the protection of the working people; and (3) to prescribe the requirements of candidates for the position of inspector and prepare the programme for the competitive examinations by means of which they are selected. This commission receives the detailed reports of the inspectors, and from them prepares an annual report to the President concerning the results of inspections.

Secondly, the general councils of the departments are required to create one or more departmental commissions with the duty of preparing reports on the execution of the acts in their districts and the improvements that may be made in the law. These commissions must include in their membership the president and vice-president of the council of prudhommes of the chief town or industrial center of the department and the mining engineers of the district, where there are such.

Finally, the law directs the formation in each district of committees of patronage, having for their object the protection of apprentices and children employed in industrial establishments and their development and industrial education. The number and jurisdiction of these committees are determined by the general councils of the departments, and their constitutions must be approved by the prefects, or in the department of the Seine by the minister of commerce and industry. Members are appointed for 3 years, but are eligible for reappointment. The committees are administered by a commission of 7 members, 4 of whom are named by the general council and 3 by the prefect. Members serve without pay.

Violations of the act are prosecuted in a police court (*tribunal de simple police*). Fines of from 5 to 15 francs (\$0.97 to \$2.90) can be imposed for each person employed in violation of the law. In case of the repetition of an offense the offender is prosecuted in a court of correction



(*tribunal correctionnel*), and can be punished by a fine of from 16 to 100 francs (\$3.09 to \$19.30). The court may furthermore order the judgment to be posted up or even inserted in one or more newspapers of the department at the expense of the offender.

Any person who places an obstacle in the way of or hinders an inspector in the performance of his duty can be punished by a fine of from 100 to 500 francs (\$19.30 to \$96.50), and upon repetition of the offense by a fine of from 500 to 1,000 francs (\$96.50 to \$193).

Regulations issued by the Government concerning the application of the law must be prepared upon the advice of the superior commission of labor and the consulting committee of arts and manufactures.

#### **PREVENTION OF ACCIDENTS AND PROTECTION OF HEALTH OF EMPLOYEES.**

The act of 1892, though directed primarily to the regulation of the labor of women and children, contained two articles, the purpose of which was to impose certain general obligations upon employers to take precautions for the safeguarding of the health and lives of employees. As these provisions are reproduced in the act of June 12, 1893, their character can best be shown in the summary of that law to which attention is now directed.

The scope of this law is broader than that of the act of 1892. It applies to mills, factories, and workshops of all kinds and their dependencies, with the single exception of establishments where only members of the same family work under the direction of father, mother, or tutor (*tuteur*). If, however, any such domestic workshop makes use of a steam engine or mechanical motor, or the work there carried on is classed among the list of dangerous and unhealthy industries, the inspectors of factories can prescribe the measures of health and security that must be observed in conformity with the provisions of this act.

A statement of the main provisions of the act follows. All establishments comprehended under the act must be maintained in a constant state of cleanliness, be properly lighted and ventilated, and present all the conditions of safety and salubrity necessary for the health of the employees.

In all establishments containing mechanical apparatus the wheels, belts, gearing, or other machinery that may be a source of danger must be guarded in such a manner that access to them by the employees shall be impossible except for the needs of the service. Shafts, trap-doors, and openings must be railed in. Machines, engines, tools, and means for transmitting power must be installed and maintained in such a way as to afford every possible protection against accidents. All of these foregoing provisions are applicable to theaters, warehouses, and other similar establishments where use is made of mechanical apparatus.

The Government shall, upon the advice of the consulting committee



of arts and manufactures, determine by special orders (1) within 3 months from the promulgation of the law, the general measures of hygiene and protection that must be taken by all establishments, and notably in regard to lighting, ventilation, drinking water, privies, removal of dust and vapors, precautions against fire, etc.; (2) as necessary, special provisions regarding certain industries or certain methods of work.

The consulting committee of public hygiene must be called upon for its advice in regard to all orders respecting industrial establishments generally.

The inspectors of factories are given the same power for enforcing this act as they have in regard to the act of 1892. In all cases, however, where they find that the provisions of the law or government orders are not complied with, they must first notify the proprietor of this non-observance of law by entering the fact upon the register of the establishment, make such order as is required, and fix the time, not less than one month, within which it must be complied with. The proprietor can appeal against this order to the minister of commerce during the next 15 days after the receipt of the notice. If the change necessitates important modifications, the latter can, after having taken the advice of the committee of arts and manufactures, permit a delay in making the change, which, however, can in no case exceed 18 months. When this is done the inspector must be duly notified.

The method of enforcing this law is much the same as that of the law of 1892. Infractions of the law are prosecuted before the police court and are punished by fines of from 5 to 15 francs (\$0.97 to \$2.90). The judgment must also indicate the time within which its order must be complied with. In case the judgment is not obeyed, the correctional tribunal can order the closing of the establishments. For a second offense fines of from 50 to 500 francs (\$9.65 to \$96.50) can be imposed for each infraction of the law, or a total of 2,000 francs (\$386).

The inspectors are required to make detailed annual reports concerning the application of the law in their districts. The reports must make mention of all accidents to workingmen and their causes, and contain recommendations for such new regulations as they deem to be desirable. The minister of commerce and industry is directed to make an annual general report, giving a summary of their contents.

The provisions of the act of 1892 regarding the reporting of accidents are repeated in the present law.

#### PARTICULARS OF WORK AND WAGES.

When the obligation for adult employees to be provided with pass books was removed in 1890, special exception was made of the law of March 7, 1850, in relation to books showing particulars of work and wages in the industry of weaving and winding, and the provisions of the law of March 18, 1806, concerning a system of pass books in opera-



on at Lyons. The latter measure, relating as it does to a particular locality only, need not here be considered.

The law of 1850 is similar in its general features to the English law, requiring particulars of work and wages to be furnished piece workers. It requires employers, or their agents, in giving out thread or yarn to be wound or woven, to inscribe in a book belonging to the employee certain particulars describing the work to be done and the price to be paid, in order that the workingman can determine the exact nature of the contract he is entering into and the remuneration he will receive for his services. The Government is also given the power to extend these requirements to allied branches of the textile trade.

#### ARBITRATION TRIBUNALS: COUNCILS OF PRUDHOMMES.

In France the distinction between individual and collective labor disputes is clearly made. It has been only within recent years that any important legislation for the settlement of disputes of the second class, or strikes, has been attempted. For the adjustment of individual disputes, however, France has long had, in her *conseils de prud'hommes*, a special system of labor courts that constitutes one of her most distinctive social institutions.

These councils have been defined as "special tribunals composed of employers and workingmen, created for the purpose of adjusting, by conciliation if possible, or judicially if conciliation fails, disputes between employers and workingmen, or between employers or superintendents and apprentices. They have also, in addition to their judicial functions, certain attributes of an administrative character, notably in respect to the registering of factory designs. In respect to their jurisdiction they are hierarchally below the tribunals of commerce, to which an appeal from their decisions, involving over a certain sum, can be made." (a)

The first council of prudhommes was created by the law of March 18, 1806, for the city of Lyons, at the solicitation of the silk merchants of that city, who desired an institution to take the place of their common tribunal, which they had had before the abolition of the guild system. Although this law related to but a single city, it was so framed that similar councils might be organized by decree in other cities. This privilege was quickly availed of by other important industrial centers.

The general conditions to be followed in the creation of the councils were set forth in a decree issued June 11, 1809. Various other decrees introducing greater or less changes followed. The first general law on the subject was that passed June 1, 1853, which in turn has been modified by subsequent legislation. The laws now in force regarding councils of prudhommes are the whole or parts of the acts of March 18,

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a *Traité élémentaire de législation industrielle*, par Paul Pic, p. 508.



1806, August 7, 1850, June 1, 1853, June 4, 1864, February 7, 1880, February 23, 1881, November 24, 1883, and December 10, 1884.

Councils of prudhommes are created for particular localities and industries by decrees of the central government, upon the recommendation of the chambers of commerce, the consultative chambers of art and manufactures, and the municipal councils of the districts for which the councils are proposed. The decrees determine, in each case, the geographical boundary of the jurisdiction of the council, which may be a city, one or more communes or cantons, or an entire arrondissement; the number of members of the council, which must be not less than 6 exclusive of the president and vice-president; and also the particular industries for which the council is created.

The members of the council are elected by the following two electoral classes: (1) Employers 25 years of age and having had a patent or permission to carry on their trade for at least 5 years, the last 3 of which have been in the district, or those associated under a collective name whether having a patent or not, and having exercised for 5 years a trade subject to a patent, and domiciled in the district during the last 3 years; and (2) superintendents, foremen, and workingmen who have exercised their trades for at least 5 years and who have resided in the district of the council for the last 3 years.

Only electors 30 years of age or over, and who can read and write, are eligible for election as members of the councils.

Foreigners and persons who have been deprived by law of the right of suffrage are ineligible either as electors or members of the councils.

The formalities of elections are as follows: In each commune of the district covered by a council, the mayor, assisted by two assessors selected by him, one from among the employer electors and one from the workingman electors, compiles a list of electors, which he sends to the prefect. From these lists the prefect prepares and publishes a list of the electors. In case of dissatisfaction, recourse may be had to the council of the prefecture or to the civil tribunals, according to the provisions of the law in relation to municipal elections. Upon the appointed day the employer electors and the superintendent, foreman, and workingman electors meet in separate assemblies and elect their representatives to the council.

An equal number of members is elected by each class. The president and vice-president are elected by the council itself from among its members in full assembly. When the president is a representative of the employers, the vice-president must be a representative of the employees and vice versa. In case, however, either class collectively abstain from voting at an election for the councils, or cast their votes for a person notoriously ineligible, or the persons elected refuse to serve or systematically abstain from attending meetings, a new election must be held within the following fortnight. If the same obstacles are again met with, the persons duly elected, if they are equal to one-half the total number of members of the council, can organize and act, no matter



whether all of them represent one class or not. In this case both the president and vice-president can be either employers or employees, as the case may be.

The term of service of members is 6 years, one-half the members retiring every 3 years. Members are eligible for reelection. The prefect convokes the electors whenever occasion arises for electing new members. The president and vice-president hold office for one year, but can be reelected. Each council elects a secretary by a majority vote, who is generally a permanent officer, as he can remain indefinitely in office unless dismissed by a two-thirds vote.

Members of the council in general serve without pay, though the law of 1880 permits the communes to fix and pay a remuneration to them if they wish to do so. In case a person elected as a member of a council refuses to perform his duties, he can be considered as having resigned, and in cases of grave dereliction he can be called before the council to give an explanation, and if this is not satisfactory he can be either censured, suspended, or dismissed.

In order that the councils may exercise their dual functions as committees of conciliation and labor courts, each one is divided into two sections, called, respectively, the general bureau and the special bureau. The special bureau consists of 2 members—an employer and an employee. They must hold meetings at least once a week, at which the 2 members preside alternately. The function of this bureau is to terminate, by way of conciliation, the minor disputes which daily arise between employers and employees. In case it is unsuccessful it turns over the matter to the general bureau, or bureau of judgment as it is sometimes called.

Members of the council can, in certain cases, upon the request of the parties, visit employers, superintendents, or workingmen in order to inform themselves by personal examination whether laws and regulations are properly complied with. In such cases they must be accompanied by a public officer.

The general bureau, which sits as a court, is composed of the president and vice-president of the council, and an equal number, not less than 2, of employer and workingman members. It must meet at least twice a month, at which not less than two-thirds of the members must be present.

The procedure followed before both the special and general bureaus is as simple and inexpensive as possible. The parties can present themselves voluntarily, or the defendant can be summoned by a simple letter, or, if necessary, by a formal citation. Representation by counsel is prohibited. Decisions are given by a majority vote of the members present.

Turning now to the powers of the councils, it will be remembered that they have both judicial and administrative functions. Both are strictly limited. As a court the council of prudhommes is simply a body for adjusting differences between employers and employees, and can not take action in any other matters. Disputes between employers



or between employees do not fall within its jurisdiction. The subject in dispute must arise in one of the industries for which the council is created, and must relate to matters arising out of the labor contract or apprenticeship. The most important class of questions coming before these bodies are, therefore, those relating to wages, hours of labor, penalties for defective work, and the observance of the conditions set forth in apprenticeship agreements.

When the amount involved in a dispute does not exceed 200 francs (\$38.60) the judgment of the council is final. If the amount is over that sum an appeal can be made to the tribunal of commerce. Even though an appeal is taken, however, the council can order the execution of its judgment up to 200 francs (\$38.60), and more than that sum if proper indemnity bond is given.

The councils also have to some extent criminal or punitive powers. They can thus examine acts of workmen in the industries coming under their jurisdiction tending to disturb order or discipline and all grave faults of masters toward their apprentices, and impose penalties of imprisonment not to exceed 3 days. But little use is made of this power, as the justices of the peace have concurrent jurisdiction.

The administrative duties of the councils consist (1) in serving as the depositaries of designs for work of which employers wish to retain the exclusive use; (2) in keeping and forwarding to the central government a record of the number of existing trades and the number of employees in each establishment under their jurisdiction; and (3) in serving as a consultative body. In order to perform the second duty they can enter factories after giving a 2 days' notice of their intention to do so. The councils are frequently summoned by the administrative authorities to give their advice on measures relating to labor that are under consideration.

The services of the councils are gratuitous, with the exception that certain small fees are required for the execution of the different official papers. These must, in general, be borne by the party found at fault.

A council can at any time be dissolved by decree.

In cities not included in the jurisdiction of any council, disputes between employers and their employees are settled by justices of the peace, subject to appeal to the civil courts in the more important cases.

#### ARBITRATION TRIBUNALS: COLLECTIVE DISPUTES.

Nothing in the general law of France prevents parties to a dispute from referring the matter to another party for settlement. The first and only law having for its purpose the encouragement of such reference and making provision for the means by which it can be done was passed December 27, 1892. This law being a brief and compact act, its provisions can well be shown by a translation of the law. The act reads

Whenever disputes of a collective character arise between employers and employees regarding the conditions of employment, they may



submit the questions at issue to a board of conciliation, or, in default of an agreement being arrived at by this board, to a council of arbitration, which shall be constituted in the following manner:

The employers or employees may, either together or separately, in person or by proxy, address a declaration in writing to the justice of the peace of the canton or of one of the cantons in which the dispute has arisen, setting forth: (1) The names, titles, and domiciles of the applicants or their proxies; (2) the matter in dispute, with a succinct account of the motives alleged by the parties; (3) the names, titles, and domiciles of the persons to be notified of the proposal of conciliation or arbitration; (4) the names, titles, and domiciles of the delegates chosen by the applicants from among the persons concerned to assist or to represent them, the number not to exceed 5.

Within 24 hours the justice of the peace must deliver a notice of the receipt of this declaration, specifying the date and hour of its deposit, to the opposing parties or their representatives, either by letter or, if necessary, by notices posted on the doors of the office of the justice of the peace of the canton or the mayor of the commune in which the dispute has arisen.

Upon receipt of this notification, or within 3 days thereafter, those concerned must send their response to the justice of the peace. After this delay their silence is regarded as a refusal.

If they accept, they must designate in their response the names, titles, and domiciles of the delegates chosen to assist or to represent them, the latter not to exceed 5 persons.

If the departure or absence of the persons notified of the proposal, or if the necessity for consulting attorneys, partners, or an administrative council, prevents a response within 3 days, the representatives of the said persons must within 3 days declare what delay is necessary in order to make a reply. This declaration must be transmitted to the applicants within 24 hours by the justice of the peace.

If the proposal is accepted the justice of the peace must urgently invite the parties or their delegates to organize a committee of conciliation. The meetings must take place in the presence of the justice of the peace who may be appointed by committee to preside over the discussions.

If an agreement is reached, as to the conditions of the conciliation, these conditions are set down in a report prepared by the justice of the peace and signed by the parties or their delegates.

If an agreement can not be reached the justice of the peace invites the parties to appoint either one or more arbitrators each, or to select a common arbitrator.

If the arbitrators do not agree as to the solution of the dispute, they may choose a new arbitrator to act as umpire.

If the arbitrators can neither decide upon the solution of the dispute nor agree as to the umpire, they shall declare the fact in the report of proceedings, and the umpire will then be named by the president of the civil tribunal after examining the report of proceedings, which must immediately be sent to the latter by the justice of the peace.

The decision of the point at issue, when reached, is sent to the justice of the peace, revised and signed by the arbitrators.

When a strike occurs in default of initiative on the part of those interested, the justice of the peace, by the means already indicated, must invite the employers and employees, or their representatives, to make known to him within 3 days: (1) The matter in dispute, with a succinct account of the motives alleged; (2) the acceptance or refusal of



recourse to conciliation and arbitration; (3) if accepted, the names, titles, and domiciles of the delegates chosen by the parties, the persons chosen not to exceed 5 in number for each side.

The delay of 3 days may be increased for reasons stated in the case of private initiative, and if the proposal is accepted the matter proceeds in the same manner as already indicated.

The reports and decisions above mentioned must be preserved in the minutes at the office of the justice of the peace, who must send a copy free of charge to each of the parties and address one copy to the minister of commerce and industry through the prefect.

The request for conciliation and arbitration, the refusal or failure to respond on the part of the other party, the decision of the committee of conciliation or of the arbitrators, which are transmitted by the justice of the peace to the mayor of each commune over which the dispute extends, must be made public by each of these mayors, who must post the notices in the place reserved for official publications.

The posting of these decisions may also be done by the parties interested, and the notices in this case are exempt from stamp duty.

The premises needed for the meetings of the committees of conciliation or councils of arbitration must be provided, heated, and lighted by the communes in which the meetings take place.

The expenses resulting therefrom must be included in the obligatory expenditures of the commune.

The expenses of the boards of conciliation and arbitration must be fixed by an order of the prefect of the department and must be carried on the departmental budget as obligatory expenditures.

All acts executed in carrying out the provisions of the present law are exempt from stamp duty and are registered gratis.

The arbitrators and delegates named under the present act must be citizens of France.

In trades or industries where women are employed they may be chosen as delegates on condition that they are of French nationality.

This law also applies to the colonies of Guadeloupe, Martinique, and Réunion.

#### BUREAU OF LABOR.

France was the first European country to follow the example of the United States and create a bureau for the collection of statistics and information concerning labor. The law creating this office is dated July 20, 1891. It simply provides that a bureau of labor shall be created under the ministry of commerce and industry for the purpose of "collecting, coordinating, and publishing information concerning statistics of labor." The organization and detailed duties of the bureau were fixed by subsequent decrees. As originally constituted its work was limited strictly to the collection of statistics in relation to labor. From time to time, however, other statistical work has been turned over to it, so that at the present time it publishes not only special reports on labor conditions, and a monthly bulletin, but the annual statistical abstract, the annual returns of births, deaths, marriages, etc., the annual report on trade associations, and the results of the periodical censuses. It has, in fact, become the central or general statistical bureau of France.



RECENT REPORTS OF STATE BUREAUS OF LABOR STATISTICS.  
MARYLAND.

*Seventh Annual Report of the Bureau of Industrial Statistics of Maryland.* 1898. Jefferson D. Wade, Chief of Bureau. xvi, 257 pp.

The following information is contained in the present report: Description of the counties of Maryland, 71 pages; statistics of industries, 70 pages; list of corporations, 61 pages; the coal industry, 38 pages; the oyster, tobacco, and tomato and corn packing industries, 4 pages; labor laws passed in 1898, 10 pages.

DESCRIPTION OF COUNTIES.—This chapter contains an account of each county of the State, in which is given its history, population, area, topography, character of soil, resources, etc.

STATISTICS OF INDUSTRIES.—Tables are given showing for each county and for the State the name, character, and location of each industry enumerated, the average number of employees, average weeks in operation, daily hours of labor, system of wage payments, and total wages paid in 1898, and the condition of business in 1898 as compared with 1897. The data were obtained by personal canvass, and relate to the entire State, except Baltimore and its immediate vicinity. The following table summarizes the data shown for the various industries:

EMPLOYEES AND WAGES PAID IN 1898, AND CONDITION OF BUSINESS AS COMPARED WITH 1897, IN THE VARIOUS INDUSTRIES OF MARYLAND, EXCLUSIVE OF THE CITY OF BALTIMORE.

Industries.	Estab-lish-ments.	Em-ployees.	Wages paid.	Establishments reporting as to business.			New estab-lish-ments.
				Increase.	Decrease.	No change.	
Wanneries.....	100	9,322	\$680,285.44	41	9	47	3
Coal miners and shippers.....	12	3,867	2,277,633.74	5	.....	6	1
Cotton-goods manufactories....	6	978	261,400.64	3	.....	2	1
Flour and feed manufactories..	170	757	254,962.50	49	26	93	2
Lumber manufactories.....	147	2,139	691,183.60	57	28	62	.....
Oyster packers.....	43	2,662	375,317.00	11	9	21	2
Paper manufactories.....	15	1,172	557,810.70	10	.....	5	.....
Railroad repair shops.....	4	594	287,510.40	2	.....	2	.....
Shirt manufactories.....	17	1,250	250,977.30	9	.....	2	6
Steel and tin-plate manufac-tories.....	1	350	267,243.60	1	.....	.....	.....
Other industries.....	429	8,501	2,844,114.12	205	52	153	19
Total.....	944	31,592	8,748,439.04	393	124	393	34



**CORPORATIONS.**—A list is given of the corporations in the State except the city of Baltimore, arranged by counties, and showing in each case the name, location, date of incorporation, and amount of capital stock. A summary showing the number of corporations and the total capital stock, by industries, is given for each county and for the State as a whole. There were 887 corporations reported, with an aggregate capital stock of \$134,163,735, the city of Baltimore not being included.

**COAL MINING.**—The chapter on coal mining gives the history and development of this industry in the State, the area, location, and extent of the coal beds, cost and methods of production, etc., and statistical tables showing the coal shipments over the various coal routes for a series of years. The total coal shipment in 1898 amounted to 5,533,600 tons.

## NEBRASKA.

*Sixth Biennial Report of the Bureau of Labor and Industrial Statistics of Nebraska, for the years 1897 and 1898.* Sidney J. Kent, Deputy Commissioner. 1,188 pp.

The present report contains a large amount of material relating to the State of Nebraska, its agricultural, manufacturing, transportation and other interests. Following are some of the more important subjects treated: Population and description of counties, 140 pages; wages, 48 pages; manufacturers' returns, 117 pages; wages of city employees, 5 pages; farmers' returns, 12 pages; mortgage indebtedness, 16 pages; water works, electric light and power plants, and gas works, 80 pages; street railways, 3 pages; railroad employees, 16 pages; industrial and agricultural training, 126 pages; labor unions, 136 pages; building trades, 15 pages; free employment bureau, 6 pages. Other chapters relate to farm products, bonded indebtedness by counties, statistics of crimes, prisons, almshouses, churches, schools, and newspapers, a list of manufacturing establishments and creameries, labor laws, etc.

**POPULATION AND DESCRIPTION OF COUNTIES.**—This chapter contains a brief account of each county, giving the population, railway mileage, acres of improved and unimproved land, principal industries, irrigation, and the surplus products marketed in 1897.

**WAGES.**—Tables are given showing, by industries and occupations for each county, the number of employees, highest, lowest, and average wages, days worked, yearly earnings, and hours of labor per day. The average daily wages and average yearly earnings, and the average days worked per year and the average hours worked per day, for each of the various industries, are shown by counties and for the State. The information was compiled from reports of county clerks, based on data gathered by precinct assessors. Following is a presentation of the data for the State.



AVERAGE TIME AND EARNINGS, BY INDUSTRIES.

Industries.	Average daily wages.	Average days worked per year.	Average yearly earn- ings.	Average daily hours of labor.
Building trades.....	\$1.95	175	\$339.07	9 <sup>2</sup> / <sub>3</sub>
Woodworking.....	2.00	188	375.50	10
Printing and bookbinding.....	1.90	231	438.90	9 <sup>2</sup> / <sub>3</sub>
Ironwork.....	2.15	237	509.55	10
Railway labor.....	2.20	305	671.00	10 <sup>1</sup> / <sub>6</sub>
Office work.....	2.07	260	538.20	10
Farm labor.....	.94	162	152.28	12
Miscellaneous labor.....	1.71	227	388.17	10
Total.....	1.61	209	336.49	10 <sup>1</sup> / <sub>2</sub>

MANUFACTURERS' RETURNS.—Tables are given showing, for the establishments reporting, which are grouped according to industries, the value of products, capital invested, cost of material used, days in operation, wages paid, etc. Some of the data are for 1896 and other data for 1897. Comparisons are also made, in several cases, with figures for 1895.

WAGES OF CITY EMPLOYEES.—The highest, lowest, and average daily and monthly wages are given, by occupations, for each city and town reporting.

FARMERS' RETURNS.—These returns relate to the value of improved and unimproved land; average cost and yield per acre of corn, wheat, rye, and oats; the daily and monthly wages of farm laborers; and the proportion of farmers owning their farms in 1897 as compared with the proportion owning their farms 10 years previous. The information was obtained by correspondence with representative farmers, and is presented by counties. The returns from 49 counties show the following averages: Yield per acre—corn, 32 bushels; wheat, 45 bushels; rye, 16 bushels; oats, 30 bushels. The average monthly wages paid for farm labor, including board, was \$16.48 for males and \$8.48 for females. The returns show that while 10 years before about 80 per cent of the farmers owned their farms, this proportion had been reduced to about 10 per cent at the time the returns were made.

MORTGAGE INDEBTEDNESS.—Tables are given showing, for each county, the number of farm, town and city, and chattel mortgages filed, the number satisfied, and the amounts involved during each of the three half-year periods from January 1, 1897, to June 30, 1898. A summary for the State shows the totals for the 7 years from July 1, 1891, to June 30, 1898.

PRIVATE AND MUNICIPAL OWNERSHIP OF WATERWORKS, ELECTRIC LIGHT AND POWER PLANTS, AND GAS WORKS.—The data presented in this chapter were mostly collected by the United States Department of Labor, and constitute a part of the results of an investigation undertaken for the entire country by that Department.

STREET RAILWAYS.—Statistics of mileage, cost of operation, number and wages of employees, etc., are given for each of two electric railway companies operating in the State.



**RAILROAD EMPLOYEES.**—Returns from 7 railroads in the State are given, showing for each road, by occupations, the number of employees, highest, lowest, and average wages, and hours of labor per day; also wage rates and earnings of employees paid by the mile.

**INDUSTRIAL AND AGRICULTURAL TRAINING.**—An illustrative account is given of the technical schools connected with the State University; also extracts from a report of the United States Commissioner of Education regarding industrial education in other States and countries.

**LABOR ORGANIZATIONS.**—Brief sketches are given of national and international unions in the United States, and extracts from reports and articles on labor subjects.

**BUILDING TRADES.**—Tables are presented showing the prices paid for building materials, and the wages paid and hours of labor required by a number of contractors in the State.

**FREE EMPLOYMENT BUREAU.**—An account is given of the organization and work of the new employment bureau created by law in 1897. From the organization of the bureau, on May 1, 1897, to December 31, 1898, 1,040 applications for positions and 249 applications for help were received and 218 persons secured employment through the bureau.

## NEW JERSEY.

*Twenty-first Annual Report of the Bureau of Statistics of Labor and Industries of New Jersey, for the year ending October 31, 1898.* William Stainsby, Chief. xi, 335 pp.

The following subjects are treated in this report: Statistics of manufactures, 64 pages; current classified weekly wages, 35 pages; cost of living, 16 pages; steam railroad transportation, 10 pages; municipal and county indebtedness, 7 pages; a brief study in trades unionism, 10 pages; occupations and earnings of men, women, and children, 10 pages; strikes and lockouts, 19 pages; labor legislation, 91 pages.

**MANUFACTURES.**—The collection and publication of statistics of manufactures in New Jersey, which was begun in 1896, was made a part of the regular duty of the bureau of statistics by a legislative act passed in 1898. As the giving of information by manufacturers is not compulsory, the returns do not cover all the establishments in the State. A sufficient number, however, have reported to show the general condition of the industries of the State. Returns were made by 50 establishments, representing 43 general industries. Of the establishments, 275 were managed by private firms and 228 by corporations. The number of partners included in the private firms was 585, and the number of stockholders of corporations was 3,045. Of the aggregate capital invested in all the establishments considered, amounting to \$77,173,600, the corporations controlled \$59,962,371, or 77.70 per cent, and the private firms



ms \$17,211,273, or 22.30 per cent. The average investment per part-  
er in a private firm was \$29,420.98, while that per stockholder was  
9,692.08.

Of the 43 industries enumerated, 25, representing 396 establishments,  
ch produced goods to the value of over \$1,000,000. The returns for  
ese are summarized, by industries, in the two following tables:

CAPITAL INVESTED, VALUE OF MATERIAL USED AND OF PRODUCTS, PER CENT OF  
BUSINESS DONE, AND AVERAGE EMPLOYEES, FOR 25 LEADING INDUSTRIES, 1897.

Industries.	Firms.	Cor- pora- tions.	Total estab- lish- ments	Capital invested.	Value of material used.	Value of products.	Per cent of busi- ness done of maxi- mum capac- ity.	Aver- age em- ployees.
r steel and iron .....	1	6	7	\$3, 236, 000	\$2, 007, 398	\$3, 751, 049	59. 14	2, 210
ewing, lager beer, ale, and orter .....	2	17	19	6, 462, 079	1, 857, 753	4, 992, 527	70. 41	1, 104
ick and terra cotta .....	8	16	24	4, 462, 843	1, 048, 481	3, 112, 368	70. 22	2, 960
rsets .....	2	3	5	490, 000	517, 779	1, 229, 718	83. 75	1, 441
tton goods .....	3	4	7	1, 461, 000	626, 405	1, 042, 505	82. 50	683
tton goods, dyeing and inishing .....	1	2	3	770, 000	1, 984, 386	2, 154, 329	77. 86	637
emical products .....	2	6	8	3, 043, 706	2, 234, 374	3, 426, 832	68. 12	1, 049
ectrical appliances .....	-----	3	3	2, 895, 450	742, 546	1, 476, 375	69. 00	1, 057
undry, iron .....	10	6	16	4, 157, 653	774, 009	1, 430, 212	68. 50	2, 127
ass, window and bottle ...	4	9	13	1, 813, 000	549, 800	1, 613, 805	70. 00	4, 069
aters, furnaces and boil- ers .....	1	5	6	729, 500	534, 553	1, 108, 113	68. 00	737
ats, men's .....	18	5	23	876, 676	1, 067, 432	2, 159, 296	63. 74	1, 603
welry .....	27	6	33	2, 250, 257	1, 371, 685	2, 545, 576	69. 89	1, 292
ather and leather goods ..	16	15	31	2, 285, 063	2, 570, 592	4, 302, 132	68. 31	2, 171
achinery .....	19	13	32	4, 390, 693	1, 205, 342	2, 830, 922	54. 81	1, 537
etal goods .....	10	12	22	1, 274, 594	493, 897	1, 433, 507	62. 50	1, 219
int and varnish .....	3	6	9	2, 833, 000	706, 990	1, 516, 330	66. 75	238
ubber goods .....	1	7	8	1, 803, 500	1, 347, 877	2, 094, 930	73. 71	987
lk goods, broad and ribbon	26	22	48	10, 468, 595	10, 284, 375	18, 450, 991	80. 44	10, 557
lk throwing .....	12	1	13	537, 095	402, 547	1, 030, 059	91. 30	1, 136
lk dyeing .....	6	8	14	1, 538, 500	1, 138, 553	2, 282, 304	71. 79	2, 134
irts .....	5	3	8	754, 550	588, 476	1, 028, 553	80. 57	1, 512
oes .....	13	8	21	967, 864	1, 644, 679	2, 954, 941	63. 86	2, 130
ructural steel and iron ....	3	5	8	1, 650, 000	896, 757	1, 772, 983	59. 12	1, 333
orsted and woolen goods .	7	8	15	4, 976, 684	3, 759, 022	6, 203, 230	80. 00	4, 527
Total .....	200	196	396	66, 128, 296	640, 354, 718	75, 943, 587	.....	50, 450

Figures here apparently should be \$66,128,296; those given are, however, according to the original.  
Figures here apparently should be \$40,355,708; those given are, however, according to the original.



TOTAL AND AVERAGE WAGES PAID AND AVERAGE DAYS IN OPERATION FOR  
LEADING INDUSTRIES, 1897.

[Dividing the wages paid as given in this table by the average employees given in the preceding table does not produce in every case the average yearly earnings shown. The method used to obtain the average earnings is not known.]

Industries.	Estab- lish- ments.	Wages paid.	Average yearly earnings.	Average days in operation.
Bar steel and iron.....	7	\$1, 102, 567	\$498. 89	253
Brewing, lager beer, ale, and porter.....	19	910, 587	864. 24	314
Brick and terra cotta.....	24	947, 711	320. 17	242
Corsets.....	5	372, 780	258. 70	292
Cotton goods.....	7	212, 499	311. 12	291
Cotton goods, dyeing and finishing.....	3	237, 749	373. 21	281
Chemical products.....	8	452, 835	431. 70	309
Electrical appliances.....	3	448, 158	424. 00	278
Foundry, iron.....	16	422, 012	495. 31	265
Glass, window and bottle.....	13	1, 476, 222	461. 05	249
Heaters, furnaces, and boilers.....	6	402, 816	546. 56	277
Hats, men's.....	23	827, 404	510. 13	264
Jewelry.....	33	173, 264	598. 51	268
Leather and leather goods.....	31	827, 424	381. 12	282
Machinery.....	32	884, 144	549. 21	286
Metal goods.....	22	540, 644	443. 51	290
Paint and varnish.....	9	307, 660	672. 50	298
Rubber goods.....	8	414, 449	419. 80	226
Silk goods, broad and ribbon.....	48	4, 550, 558	431. 04	293
Silk throwing.....	13	263, 920	232. 32	298
Silk dyeing.....	14	910, 062	426. 42	276
Shirts.....	8	398, 830	263. 77	233
Shoes.....	21	850, 257	399. 18	264
Structural steel and iron.....	8	543, 539	407. 76	273
Worsted and woolen goods.....	15	1, 422, 700	314. 27	256
Total.....	396	19, 900, 791	.....	.....

The four leading industries in the State, from the standpoint of the value of products, were silk goods (broad and ribbon), worsted and woolen goods, brewing (lager beer, ale, and porter), and leather and leather goods, each of which produced goods to the value of over \$4,000,000 during the year.

The capital invested by all of the 503 establishments reporting was \$77,173,644; the cost of the stock or material used was \$43,442,300; the value of the goods made and work done was \$82,069,367; \$22,172,200 was paid in wages, and there were 57,918 employees on an average during the year. The establishments were in operation during an average of 271.13 days in the year, and the business done was 68.48 per cent of the total capacity of the 503 establishments reporting.

**CURRENT CLASSIFIED WEEKLY WAGES.**—The tables presented under this head show the actual wages paid to a specified number of employees in each of 163 establishments, classified according to the different rates, and in many cases by occupations. The presentation shows only actual individual wage rates and does not deal with average wages.

**COST OF LIVING.**—The statistics presented under this head show the prevailing retail prices of 51 articles of household supplies in 71 localities in the State during the month of June, 1898.

**STEAM RAILROAD TRANSPORTATION.**—This chapter contains a classification of employees of steam railroads in the State, showing the number, average daily and monthly wages and annual earnings, and the number of days employed during the year. The following statement



shows the number and average earnings of employees, arranged according to the class of work at which they were employed:

NUMBER AND AVERAGE YEARLY EARNINGS OF EMPLOYEES OF RAILROADS AND PER CENT OF TOTAL WAGES PAID, BY CLASSES OF WORK.

This table is compiled from reports for the year ending June 30, 1898, for all roads in the State except the Pennsylvania, which reported for the calendar year 1897.]

Class of work.	Employees.	Average yearly earnings.	Per cent of total wages paid.
Transportation.....	18,067	\$599.40	62.3
Maintenance of equipment.....	6,933	589.20	23.5
Maintenance of way.....	4,904	395.79	11.1
Coating.....	959	567.17	3.1
Total.....	30,863	564.08	100.0

TRADE UNIONISM.—This is a comparative statement of daily and yearly earnings, hours of labor, and days idle, in representative union and nonunion establishments in the glassware, cigar, and hat industries. The figures are for 64 glass workers, 22 cigar makers, and 24 hat-factory employees; one-half in each case being union and the other half nonunion employees. The occupations in the respective industries were about the same for the two classes of employees compared. The following table is a summary of the figures shown:

HOURS OF LABOR AND WAGES PER DAY, YEARLY EARNINGS, AND DAYS IDLE OF UNION AND NONUNION EMPLOYEES IN THREE LEADING INDUSTRIES, 1898.

Industry.	Hours of labor per day.		Wages per day.		Average yearly earnings.		Days idle, year ending June 30, 1898.	
	Union.	Non-union.	Union.	Non-union.	Union.	Non-union.	Union.	Non-union.
Glassware.....	9	9	\$5.95	\$3.86	\$1,386.15	\$666.85	72 $\frac{1}{2}$	130
Cigars.....	8	10	2.25	.99	597.78	251.74	32 $\frac{3}{4}$	51
Hats.....	9	9 $\frac{1}{2}$	2.01	1.81	500.10	435.88	57	53 $\frac{3}{4}$

The above summary shows a decided advantage of union over non-union employees, especially in the case of average yearly earnings, where the difference in favor of union employees amounts to \$719.30, or 107.87 per cent, in the glassware industry, \$346.04, or 137.46 per cent, in the cigar industry, and \$64.22, or 14.73 per cent, in the hat industry.

OCCUPATIONS AND EARNINGS OF MEN, WOMEN, AND CHILDREN.—The tables presented under this subject were based on data collected by the United States Department of Labor and published in its Eleventh Annual Report.

STRIKES AND LOCKOUTS.—Figures shown here were likewise based on material collected by the United States Department of Labor and published in its Tenth Annual Report.

LABOR LEGISLATION.—The chapter on labor legislation contains, besides copies of the laws enacted in New Jersey during 1898, an article on the law of master and servant in New Jersey, and copies of the workmen's compensation acts of England and of France.



## CENSUS OF RHODE ISLAND FOR 1895.

*Census of Rhode Island, 1895.* Henry E. Tiepke, Superintendent. xiv  
1,019 pp.

This report of the fourth decennial State census of Rhode Island which is complete in one volume, relates to population and social statistics, manufactures, agriculture, fisheries, and commerce. The matter is presented in the form of carefully arranged tables of statistics and analyses, and is confined to such information as was actually collected in the taking of the census. The data are presented for the State and for each county, city, and township.

**POPULATION AND SOCIAL STATISTICS.**—The present census returns are preceded by comparative statements showing the population in each of the twenty-two census enumerations taken in the State by the colony, State, and National Government from 1708 to 1895.

The population statistics of the present census are classified in various combinations according to sex, age, nativity, parent nativity, race, conjugal and political condition, and occupations. The population and social statistics also include the number and size of families, relation to head of family, number and size of dwellings, school attendance, occupations of minors, number of illiterates, soldiers and sailors, paupers and defective persons, etc., town and city valuation and rate of taxation, and statistics of savings banks, schools, libraries, and post offices. Following is a summary of the population and social statistics of the State for 1895:

Total population June 1, 1895.....	384, 75
Population per square mile.....	354. 6
Native born.....	261, 98
Foreign born.....	122, 77
Males.....	187, 59
Females.....	197, 16
Number of families.....	84, 88
Average size of family (including abnormals).....	a 4. 5
Number of dwelling houses.....	62, 76
School attendance (7 to 15 years of age).....	50, 94
Number of illiterates (10 years of age or over).....	29, 75
Color and race:	
White.....	376, 52
Black and mixed.....	7, 92
Chinese.....	13
Indian.....	16
Japanese.....	9

a The term abnormals includes families, hotels, boarding houses, and all public and private institutions containing more than 12 persons. The average family, not including abnormals, contained 4.39 persons in 1895.



## Conjugal condition:

Single .....	214, 780
Married .....	144, 588
Widowed .....	24, 208
Divorced .....	1, 182

There was a gain of 26.45 per cent in the population since the State census of 1885. The increase of the native-born population during the decade was 19.78 per cent, while that of the foreign born was 43.49 per cent. With regard to sex, there was a diminution in the excess of females over males, the relative number having decreased from 1,078 females per 1,000 males in 1885 to 1,051 females per 1,000 males in 1895. A very slight change is noticed in regard to conjugal condition. In 1885 the single persons constituted 55.57 per cent of the total population, and in 1895, 55.82 per cent; the married constituted 37.68 per cent in 1885, and 37.58 per cent in 1895; 6.37 per cent were widowed and 0.38 per cent were divorced in 1885, and 6.29 per cent were widowed and 0.31 per cent were divorced in 1895. This shows a slight proportional gain in the single at the expense of a small decrease in the married, widowed, and divorced.

There has been scarcely any change in the average size of the family or the number of persons to a dwelling during the decade. The former was 4.57 in 1885 and 4.53 in 1895, while the latter was 6.56 in 1885 and 6.57 in 1895. The increase in school attendance of children between the ages of 7 and 14 years, inclusive, was 19.22 per cent during the decade, a favorable showing when compared with the increase of 17.26 per cent in the total population of that age period. The proportion of illiterates to the total population also decreased during the decade.

The following table shows the number and percentage of the productive population in each general group of occupations in 1895:

NUMBER AND PER CENT OF PRODUCTIVE POPULATION IN EACH GROUP OF OCCUPATIONS, 1895.

Groups of occupations.	Males.		Females.		Total.	
	Number.	Per cent.	Number.	Per cent.	Number.	Per cent.
Government .....	4, 504	3. 64	1, 714	1. 32	6, 218	2. 45
Professional .....	2, 753	2. 23	1, 006	. 77	3, 759	1. 48
Domestic .....	2, 746	2. 22	94, 629	72. 89	97, 375	38. 41
Personal service .....	1, 841	1. 49	1, 024	. 79	2, 865	1. 13
Trade.....	18, 054	14. 60	3, 545	2. 73	21, 599	8. 52
Transportation .....	10, 186	8. 24	41	. 03	10, 227	4. 04
Agriculture.....	11, 868	9. 60	125	. 10	11, 993	4. 73
Fisheries .....	755	. 61	.....	.....	755	. 30
Manufactures and mechanics .....	61, 916	50. 07	27, 582	21. 24	89, 498	35. 31
Laborers and apprentices.....	6, 599	5. 34	87	. 07	6, 686	2. 64
Occupations not classified .....	2, 430	1. 96	80	. 06	2, 510	. 99
Total .....	123, 652	100. 00	129, 833	100. 00	253, 485	100. 00

The preceding table shows a total productive population of 253,485, composed of 123,652 males and 129,833 females. Of the remaining population, 3,298, comprising 2,049 males and 1,249 females, were classed as nonproductive; 112,678, comprising 56,062 males and 56,616 females, were



pupils, students, and children at home; 3,736, of whom 3,625 were males and 111 females, were classed as retired, and 11,561, comprising 2,202 males and 9,359 females, were classed as unemployed over 16 years of age.

**MANUFACTURES.**—The census returns presented under this head show by cities, counties, and for the State, according to specified industries, the number of firms and firm members and salaried officers, the invested capital, number of wage-earners, annual wages, value of material used, value of products, expenditures for rent, power, heat, taxes, insurance, etc., number of buildings used and materials of construction, tenements owned, kind of power and light used, etc. Most of the above items are given in considerable detail. The following table gives a summary of the most important facts for each of six of the leading industries in the State:

CAPITAL INVESTED, WAGES PAID, AND VALUE OF MATERIAL USED AND OF PRODUCTS IN SIX LEADING INDUSTRIES, 1895.

Industries.	Firms.	Capital invested.	Wage-earners.	Wages paid.	Value of material used.	Value of product.
Textiles .....	204	\$73, 536, 762	48, 892	\$16, 660, 084	\$33, 286, 834	\$65, 656, 007
Metals and machinery .....	161	18, 056, 872	10, 701	5, 384, 604	5, 570, 597	14, 515, 860
Jewelry and silverware .....	266	12, 175, 444	6, 883	3, 653, 834	5, 552, 671	14, 203, 309
Rubber goods .....	5	4, 049, 485	3, 211	1, 050, 426	2, 245, 583	4, 578, 056
Stone and marble work .....	66	818, 658	1, 441	719, 316	221, 803	1, 286, 783
Woodwork .....	78	1, 322, 346	1, 120	603, 472	1, 069, 095	2, 300, 094

The above-named industries employed over nine-tenths of all persons engaged in manufactures in the State.

**AGRICULTURE.**—The census returns regarding agriculture relate to the number, size, value, and production of farms, capital invested in farm property and value of products, and to the poultry raising and bee keeping industries. There were 6,441 farms enumerated, representing an invested capital of \$30,759,698. The aggregate value of products in 1895 was \$6,476,248.87. Dairying, fodder, and vegetable products constituted the most important industries.

**FISHERIES.**—The data relating to the fisheries industry comprise capital invested, vessels used, persons employed, and nature, quantity, and value of products. A total capital of \$921,429 was invested in the fisheries industry; 33 steamers, 404 sailing vessels, and 1,480 rowboats were used, and 1,463 persons were employed. The value of products amounted to \$1,000,595.

**COMMERCE.**—The statistics of commerce show imports and exports of merchandise; American and foreign vessels entering and cleared from customs districts; registered, enrolled, and licensed vessels documented; number and tonnage of vessels, canal boats, and barges in use, and vessels built in the customs districts. The figures relating to imports and exports are for the years 1886 to 1895, and those relating to vessels engaged in traffic in Rhode Island waters are for 1885, 1890, and 1895.



## RECENT FOREIGN STATISTICAL PUBLICATIONS.

### GREAT BRITAIN.

*Report on the Strikes and Lockouts of 1897 in Great Britain and Ireland.*  
1898. c, 171 pp. (Published by the Labor Department of the British Board of Trade.)

This is the tenth annual report on strikes and lockouts in the United Kingdom, prepared by the chief labor correspondent of the Labor Department of the Board of Trade. The greater part of the volume is devoted to tables showing for each dispute the occupations and the number of working people and establishments affected, the cause or object of the dispute, and the duration and result. These tables are preceded by an analysis of the statistics of strikes and lockouts, summary tables, and a comparison of strikes and lockouts in recent years. The general plan of this report is very nearly the same as in the reports for previous years, except that in this instance disputes involving less than 10 persons, or less than one day's stoppage of work, were not considered unless the aggregate duration of the dispute exceeded 100 working days.

The year 1897 compares unfavorably with the preceding year with regard to the magnitude (persons affected and working days lost) of strikes and lockouts, although there was a smaller number of disputes. This is shown in the following table:

STATISTICS OF STRIKES AND LOCKOUTS, 1893 TO 1897.

[Persons affected means persons thrown out of work.]

Year.	Strikes and lockouts.	Persons affected.	Aggregate working days lost.
1893.....	783	636,386	31,205,062
1894.....	1,061	324,245	9,322,096
1895.....	876	263,758	5,542,652
1896.....	1,021	198,687	3,748,525
1897.....	864	230,267	10,345,523

There were, in 1897, 864 disputes affecting 230,267 persons, resulting in an aggregate loss of 10,345,523 working days. While the number of strikes and lockouts was the smallest since 1893, the aggregate of working days lost was greater than during any year since 1893. The number of persons affected was greater than in 1896, but smaller than in any of the three preceding years.

Of the 230,267 persons affected by disputes in 1897, 24,412, or 10.6 per cent, were women, and 16,092, or 7 per cent, were young persons of either sex. Nearly all the women affected were employed in the textile trades.



The following table shows, by causes or objects of strikes and lock-outs, the number of persons affected during each of the years 1893 to 1897:

PERSONS AFFECTED BY STRIKES AND LOCKOUTS, BY CAUSES, 1893 TO 1897.

[Persons affected means persons thrown out of work.]

Cause or object.	1893.		1894.		1895.		1896.		1897.	
	Num-ber.	Per-cent.	Num-ber.	Per-cent.	Num-ber.	Per-cent.	Num-ber.	Per-cent.	Num-ber.	Per-cent.
Wages.....	567, 460	89. 2	234, 903	72. 4	143, 198	54. 3	115, 817	58. 3	106, 293	46. 2
Hours of labor .....	1, 191	. 2	6, 105	1. 9	2, 858	1. 1	3, 658	1. 8	52, 769	22. 9
Employment of particular classes of persons .....	7, 310	1. 2	3, 699	1. 1	4, 467	1. 7	7, 478	3. 8	19, 529	8. 5
Working arrangements, rules, and discipline.....	25, 667	4. 0	37, 763	11. 7	84, 393	32. 0	33, 121	16. 7	38, 311	16. 6
Questions of trade unionism.....	19, 298	3. 0	15, 519	4. 8	6, 614	2. 5	12, 031	6. 0	8, 018	3. 5
Other causes.....	15, 460	2. 4	26, 256	8. 1	22, 228	8. 4	26, 582	13. 4	5, 347	2. 3
Total .....	636, 386	100. 0	324, 245	100. 0	263, 758	100. 0	198, 687	100. 0	230, 267	100. 0

While the most prevalent causes of strikes and lockouts were those relating to wages, the number of persons affected by such strikes and lockouts has steadily declined since 1893. In 1897 106,293 persons out of a total of 230,267 were involved in disputes regarding wages. This represents a percentage of 46.2, as compared with a percentage of 58.3 in 1896, 54.3 in 1895, 72.4 in 1894, and 89.2 in 1893. Thus 1897, a year of rising wages, has been freer from wage disputes than any year during the five-year period, most of the advances in wages having been obtained without stoppage of work. The large number of persons affected by disputes regarding hours of labor in 1897—namely, 52,769, or 22.9 per cent of the total—was due to the general strike in the engineering trade.

The causes or objects of strikes and lockouts in 1897, the number of persons affected classified according to results, and the aggregate number of working days lost are shown in the following table:

PERSONS AFFECTED BY STRIKES AND LOCKOUTS, BY CAUSES AND RESULTS, AND WORKING DAYS LOST, 1897.

[Persons affected means persons thrown out of work.]

Cause or object.	Strikes and lock-outs.	Persons affected by strikes and lockouts, the results of which were—				Total persons affected.	Aggregate working days lost.
		In favor of em- ployees.	In favor of em- ployers.	Com- pro- mised.	Indef- inite or un- settled.		
Wages.....	532	28, 918	32, 480	42, 678	2, 217	106, 293	3, 034, 465
Hours of labor.....	20	3, 304	47, 877	1, 545	43	52, 769	5, 822, 445
Employment of particular classes of persons .....	121	2, 543	7, 372	9, 614	.....	19, 529	240, 125
Working arrangements, rules, and discipline.....	119	6, 548	11, 499	19, 801	463	38, 311	452, 857
Questions of trade unionism.....	49	6, 584	865	560	9	8, 018	658, 984
Sympathetic disputes .....	20	1, 891	1, 749	1, 043	.....	4, 683	133, 019
Miscellaneous .....	3	.....	640	24	.....	664	3, 628
Total .....	864	49, 788	102, 482	75, 265	2, 732	230, 267	10, 345, 523



In 1897 the advantage in the settlement of disputes was on the side of the employers, 102,482, or 44.5 per cent, of the working people having been involved in disputes settled entirely in favor of the employers, and only 49,788, or 21.6 per cent, in disputes settled wholly in favor of employees. This general result was mainly due to the settlement of the dispute in the engineering trade, which affected a large number of persons. Disputes affecting 75,265 persons, or 32.7 per cent, were compromised. In the remaining cases the settlement of the dispute was indefinite or unsettled at the close of the year.

The number of strikes and lockouts, the number of persons affected classified according to results, and the aggregate working days lost are shown by industries in the following table:

PERSONS AFFECTED BY STRIKES AND LOCKOUTS, BY INDUSTRIES AND RESULTS, AND WORKING DAYS LOST, 1897.

[Persons affected means persons thrown out of work.]

Industries.	Strikes and lockouts.	Persons affected by strikes and lockouts, the results of which were—				Total persons affected.	Aggregate working days lost.
		In favor of employees.	In favor of employers.	Compromised.	Indefinite or unsettled.		
Building.....	193	11,101	1,949	1,997	.....	15,047	353,348
Mining and quarrying.....	127	18,114	16,124	13,137	2,017	49,392	1,445,843
Metal, engineering, and shipbuilding.	229	8,656	57,339	30,664	530	97,189	7,141,289
Textile.....	108	2,903	17,833	16,110	155	37,001	677,615
Clothing.....	56	4,172	2,151	693	.....	7,016	301,082
Transportation.....	48	1,294	2,090	9,109	30	12,523	76,497
Miscellaneous.....	95	3,484	4,883	3,367	.....	11,734	348,459
Employees of local authorities.....	8	64	113	183	.....	365	1,390
Total.....	864	49,788	102,482	75,265	2,732	230,267	10,345,523

The greatest number of strikes and lockouts, persons affected, and working days lost in any one group of industries, in 1897, occurred in that of metal, engineering, and shipbuilding. Next in importance with regard to the number of persons affected and aggregate working days lost were disputes in the groups of mining and quarrying, textiles, and building trades, respectively.



In the following table the strikes and lockouts, which began in 1897, are arranged in groups according to the number of persons involved:

PERSONS AFFECTED BY STRIKES AND LOCKOUTS, AND WORKING DAYS LOST, BY GROUPS, 1897.

[Persons affected means persons thrown out of work.]

Groups.	Strikes and lock-outs.	Persons affected.		Working days lost.	
		Number.	Per cent.	Number.	Per cent.
5,000 persons and upward .....	4	72, 665	31. 6	7, 486, 000	67. 2
2,500 and under 5,000.....	5	14, 400	6. 3	257, 700	2. 3
1,000 and under 2,500.....	26	38, 030	16. 5	779, 312	7. 0
500 and under 1,000 .....	49	33, 320	14. 5	1, 021, 440	9. 2
250 and under 500 .....	81	28, 107	12. 2	655, 583	5. 9
100 and under 250 .....	150	23, 797	10. 3	517, 102	4. 6
50 and under 100 .....	156	10, 830	4. 7	194, 260	1. 7
25 and under 50 .....	164	5, 573	2. 4	163, 748	1. 5
Under 25 (a) .....	229	3, 545	1. 5	67, 607	. 6
Total .....	864	230, 267	100. 0	611, 142, 752	100. 0

a Disputes involving less than 10 persons and those which lasted less than 1 day have been omitted, except when the aggregate duration exceeded 100 working days.

b These figures differ somewhat from those given in preceding tables as the aggregate days lost during 1897, since they exclude the days lost in 1897 through disputes in progress at the beginning of the year and include those lost in 1898 through disputes which began in 1897.

It appears from the above table that, as in preceding years, a comparatively small number of disputes accounted for a very large proportion of the persons involved and of the total working days lost. Thus there were 4 disputes in 1897, which affected 72,665 employees, or 31.6 per cent of the entire number of persons directly or indirectly engaged in strikes and lockouts. On the other hand, 549, or nearly 64 per cent of the disputes accounted for only 19,948 persons, or 8.6 per cent of the total number of persons affected by disputes.

A significant fact brought out by an examination of the strike statistics for recent years is the great magnitude of a few disputes. Thus, in 1893, one strike of coal-mine employees affected 300,000 persons, and another miners' strike 90,000 persons; in 1894 a miners' strike affected 70,000 persons; in 1895 a strike in the boot and shoe trade affected 46,000 persons; and in 1897 a strike in the engineering trade affected 47,000 working people.

In the following table the number of disputes beginning in 1895, 1896, and 1897, and the number of working people affected, are classified according to the various methods of settlement:

PERSONS AFFECTED BY STRIKES AND LOCKOUTS BEGINNING IN 1895, 1896, AND 1897, BY METHODS OF SETTLEMENT.

[Persons affected means persons thrown out of work.]

Method of settlement.	1895.		1896.		1897.	
	Strikes and lock-outs.	Persons affected.	Strikes and lock-outs.	Persons affected.	Strikes and lock-outs.	Persons affected.
Arbitration.....	25	13, 251	20	10, 280	14	9, 756
Conciliation and mediation .....	35	65, 700	27	9, 941	27	9, 544
Direct negotiation or arrangement between the parties .....	498	119, 582	647	120, 936	624	187, 048
Submission of working people .....	125	56, 719	154	46, 780	76	15, 207
Replacement of working people .....	160	4, 352	149	7, 450	105	4, 307
Closing of works or establishments.....	16	2, 397	20	3, 161	7	1, 673
Indefinite or unsettled.....	17	1, 757	4	139	11	2, 732
Total .....	876	263, 758	1, 021	198, 687	864	230, 267



The most prevalent method for settling trade disputes beginning in 1897 was, as usual, by direct arrangement or negotiation between the parties concerned, 624 disputes, affecting 187,048 persons, or over 81 per cent of the total number involved in disputes, being settled in this way. Forty-one disputes, affecting 19,300 persons, were settled by arbitration and conciliation and mediation, and 188 strikes, involving 21,187 persons, resulted in the submission of the working people, replacement of the working people, or the closing of the establishments.

The report closes with an appendix giving detailed accounts of cases of conciliation and arbitration, the text of certain agreements terminating trade disputes, specimen forms of inquiry, and a list of the principal board of trade publications on labor questions.

### NEW SOUTH WALES.

*Fifth and Sixth Annual Reports of the Government Labor Bureau of New South Wales for the years ending June 30, 1897, and June 30, 1898.* 1897, 28 pp.; 1898, 30 pp.

The functions of the labor bureau of the New South Wales department of labor and industry are those of an employment office. The statistics presented in these two reports therefore relate mainly to the subject of employment in New South Wales. Information is given regarding the general condition of labor and industry, and the operations of the bureau in securing work and providing relief for the unemployed during the fiscal years. Tables show, by occupations, the number of registrations and of persons assisted and sent to work, their wages, and a comparison of these figures with those for previous years.

Following is a statement of the number of persons registered, and the number assisted and sent to work during each fiscal year since the bureau was organized:

#### PERSONS REGISTERED AND ASSISTED, 1893 TO 1898.

Fiscal year ending—	Persons registered.	Persons assisted and sent to work.
February 17, 1893.....	18,600	8,154
February 17, 1894.....	12,145	10,349
February 17, 1895.....	13,575	16,380
June 30, 1896 (a).....	17,345	25,903
June 30, 1897.....	6,427	13,718
June 30, 1898.....	4,167	7,817
Total.....	72,259	82,321

*a* For the period, February 18, 1895, to June 30, 1896.

That the number assisted and sent to work should exceed the number registered is due to the fact that a man is registered only once, while there is no limit to the number of times he may be sent or assisted to work.



The years ending June 30, 1897, and June 30, 1898, respectively, show a marked decrease in the number of registrations of persons seeking employment, and also in the number assisted and sent to work. In the former year 6,427 were registered and 13,718 were assisted and sent to work while in the latter year 4,167 were registered and 7,817 were assisted and sent to work. This shows a decrease of 2,260 in 1898 as compared with 1897 in the registrations, and a decrease of 5,901 in the number assisted and sent to work. These figures seem to indicate a decided improvement in the labor market during the years covered by these reports.

### SWEDEN.

*Undersökning af Bagerierna i Sverige.* På uppdrag af Kongl. Kommerskollegium och under dess öfverinseende verkställd af Johan Leffler. Arbetsstatistik I. lxxv, 75 pp.

This report is the first of a series on labor statistics prepared by direction and under the supervision of the Swedish department of commerce and gives the results of an investigation, conducted in 1897, relating to bake shops and bake-shop employees in Sweden. The report consists of an analysis and a series of detailed statistical tables. With regard to the bakeries, the data presented show the number investigated, by localities and by the number of persons employed, the number of bakeries below and above ground, their cubic air space, and their condition as to cleanliness and sanitation. The statistics relating to employees show the number by sex, age, occupation, and civil condition, their hours of labor on week days, Sundays, and at night, earnings, housing conditions, health, membership of provident, trade, and temperance organizations, number of unemployed in 1896 by causes of nonemployment, etc.

The investigation covers a total of 727 bakeries, employing 2,260 males and 612 females, or in all 2,872 persons. The bake shops were mostly found to be above ground and were usually in a satisfactory condition with regard to air space, cleanliness, and sanitation. The greater part of the bake-shop employees worked from 66 to 84 hours per week, although in a few cases the hours of labor exceeded 108 per week. A majority of the male employees received from 600 to 1,000 kroner (\$160.80 to \$268) per year, and of the female employees from 470 to 600 kroner (\$125.96 to \$160.80). A few males earned over 1,500 kroner (\$402), but the highest wages paid to females did not exceed 1,000 kroner (\$268) per year. Of the male employees, 512 were members of provident associations, 853 of trade unions, and 194 of temperance societies.

*Undersökning af Tobaksindustrien i Sverige.* På uppdrag af Kongl. Kommerskollegium och under dess öfverinseende verkställd af Henning Elmquist. Arbetsstatistik II. 374 pp.

This work, the second of the series on labor statistics, prepared under the direction of the Swedish department of commerce, is the



result of an elaborate investigation of the labor conditions of cigar and tobacco workers in 1898. Besides a series of tables giving details for each locality or district, the work contains an extended analysis of the statistics obtained, and a historical sketch of the development of the tobacco industry in Sweden. The following are the principal points covered by this investigation: Number of establishments, cubic air space, and systems of ventilation in the factories and workshops; persons employed, by occupations, sex, age, and civil condition; occupations of parents of employees and of members of their families; length of service with present employer; hours of labor, earnings, and character of wage payments; membership of working people's organizations; strikes and lockouts; sickness and mortality statistics, and sick benefit, burial, and travel funds. An appendix contains statistics of the incomes of a number of selected families, and 14 budgets of working people employed in the tobacco industry.

The investigation covered 128 places of employment, of which 104 were factories and workshops, and 24 were private homes. The employees in these establishments numbered 1,621 males and 2,759 females, or a total of 4,380 persons. The average weekly hours of labor of employees were 57.6 in the case of males, and 56.4 in the case of females, or 56.8 for both sexes. The average yearly earnings of employees in the cigar and tobacco industry were 574.50 kroner (\$153.97) in the case of unmarried males, and 880.24 kroner (\$235.90) in the case of married men and widowers. Unmarried females earned an average of 466.17 kroner (\$124.93), and married women and widows 572.36 kroner (\$153.39) per year. With regard to the system of wage payments, it was found that 64.5 per cent of the employees were paid by the piece, 33.9 per cent by the time worked, and in the remaining cases the wage system was either variable or not reported. A total of 1,301 cigar and tobacco workers were members of trade unions, of which number 624 were males and 677 females; 2,045 composed of 818 males and 1,227 females, were members of provident institutions, and 144 males and 163 females, or a total of 307, belonged to temperance societies.



## DECISIONS OF COURTS AFFECTING LABOR.

[This subject, begun in Bulletin No. 2, has been continued in successive issues. All material parts of the decisions are reproduced in the words of the courts, indicated when short by quotation marks and when long by being printed solid. In order to save space, immaterial matter, needed simply by way of explanation, is given in the words of the editorial reviser.]

### DECISIONS UNDER STATUTORY LAW.

**ALIEN CONTRACT LABOR LAW—CONSTRUCTION OF STATUTE—***United States v. Gay (two cases)*, 95 *Federal Reporter*, page 226.—These two cases were identical as to their facts, and were heard and submitted together as one case. The actions were brought by the United States to recover the penalty of \$1,000 under the act of Congress of February 26, 1885 (23 Statutes at Large, 332, chap. 164), the first section of which reads as follows:

From and after the passage of this act it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation or in any way assist or encourage the importation or migration of any alien or aliens, any foreigner or foreigners, into the United States, its Territories, or the District of Columbia, under contract or agreement, parol or special, express or implied, made previous to the importation or migration of such alien or aliens, foreigner or foreigners, to perform labor or service of any kind in the United States, its Territories, or the District of Columbia.

After a hearing in the United States circuit court for the district of Indiana, the action was dismissed on the ground that a draper, window dresser, and dry-goods clerk did not come within the prohibition of the statute. The case was then carried up on writ of error to the United States circuit court of appeals, seventh circuit, which rendered its decision June 6, 1899, and affirmed the action of the lower court.

District Judge Bunn delivered the opinion of the court of appeals, and the following is quoted therefrom:

The plaintiff, in its amended complaint, alleges: That the defendant, on the 20th day of July, 1893, did assist, encourage, and solicit the importation and migration of a certain alien and foreigner into the United States, to wit, one James H. Ferguson, then a native of Scotland, and a subject of the Queen of Great Britain and Ireland, for the purpose of performing manual labor as a draper, window dresser, and dry-goods clerk in the United States, under agreement made by the defendant with him prior to his migration.

Several questions were discussed on the hearing, but there is only one which we think it necessary to consider. The opinion of the court below, printed in the record, shows that the principal ground on which the action was dismissed was that a draper, window dresser, and dry-



goods clerk did not come within the prohibition of the statute. The court says, in its opinion:

"The statute in question is highly penal, and must be so construed as to bring within its condemnation only those who are shown by the direct and positive averments in the declaration to be embraced within the terms of the law. It will not be so construed as to include cases which, although within the letter, are not within the spirit of the law. It must be construed in the light of the evil which it was intended to remedy, which, as is well known, was the importation of manual laborers, under contract previously entered into, at rates of wages with which our own laboring classes could not compete without compelling them to submit to conditions of life to which they were unaccustomed. (Citing authorities.) It is well settled by these and other cases that the statute must be construed as limited to cases where the assisted immigrant was brought into this country under a contract to perform manual labor or service." (U. S. v. Gay, 80 Fed., 254.)

We are of the opinion that this ruling is correct, in view of the previous construction placed upon the statute by the Supreme Court in *Church of the Holy Trinity v. U. S.*, 143 U. S., 457, 12 Sup. Ct., 511, and *U. S. v. Laws*, 163 U. S., 258, 16 Sup. Ct., 998. Mr. Justice Brown, as district judge in Michigan, had already, in *U. S. v. Craig*, 28 Fed., 795, given the motive and history of this act, and the situation which called for it, as follows:

"The motives and history of the act are matters of common knowledge. It had become the practice for large capitalists of this country to contract with their agents abroad for the shipment of great numbers of an ignorant and servile class of foreign laborers, under contracts by which the employer agreed, upon the one hand, to prepay their passage, while, upon the other hand, the laborers agreed to work after their arrival for a certain time at a low rate of wages. The effect of this was to break down the labor market, and to reduce other laborers engaged in like occupations to the level of the assisted immigrant. The evil finally became so flagrant that an appeal was made to Congress for the passage of the act in question, the design of which was to raise the standard of foreign immigrants, and to discountenance the migration of those who had not sufficient means in their own hands, or those of their friends, to pay their passage."

This language is quoted by the Supreme Court in its opinion by Mr. Justice Brewer with approval, in *Church of the Holy Trinity v. U. S.*, *supra*, and a construction is given to the statute which accords with the evident purpose of the law and the mischief it was intended to remedy. The statute was again before the Supreme Court in *U. S. v. Laws*, 163 U. S., 258, 16 Sup. Ct., 998 [Department of Labor Bulletin No. 9, page 173], and the same liberal construction followed. In this case it was held that a contract made with an alien to come to this country as a chemist on a sugar plantation in Louisiana is not a contract to perform labor and service within the meaning of the act.

If construed strictly, the act would include every person employed to perform any sort of labor or service, except those placed among the exempted class by Congress. It would include ministers, lawyers, physicians, surgeons, architects, engineers, bookkeepers, stenographers, typewriters, clerks, salesmen, drapers, and window dressers. But when we once break away from the letter of the law and seek for its true meaning and intent, which was to stay the influx of cheap, unskilled manual labor, then the liberal construction adopted by the Supreme Court furnishes the only safe resting place. Under such a



construction it seems quite clear that the employment of a single person to come to this country and engage for a dry-goods house as a draper, window dresser, and clerk does not come within the true intent and meaning of the prohibition. There was no such mischief as that ever complained of and none such to be remedied. It was not service of this kind that Congress sought to shut out, but the cheaper, grosser sort of unskilled and unhoused manual labor which was coming from abroad in competition with the common labor of this country, which has ever been on a somewhat higher plane, and where it was the purpose of Congress in the enactment of the law to keep it. The judgment of the circuit court in each of the two cases is affirmed.

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ALIENS—DEPORTATION OF PAUPER IMMIGRANTS—AUTHORITY OF MINISTERIAL OFFICERS—*In re Yamasaka*, 95 *Federal Reporter*, page 653.—One T. Yamasaka, a Japanese, was taken into custody by an immigration inspector of the United States for the reason, as alleged, that he “had, on or about the 15th day of December, 1898, surreptitiously, clandestinely, unlawfully, and without authority, come into the United States of America, and that he \* \* \* was a pauper and a person likely to become a public charge,” etc. Soon after his arrest an order to deport him was issued by the Secretary of the Treasury, whereupon he filed his petition in the United States district court for the district of Washington, northern division, asking for a writ of habeas corpus and a judicial determination of the following question: “Do the statutes cited in the warrant (chap. 164, acts of 1884–85; chap. 220, acts of 1886–87; chap. 1210, acts of 1887–88, and chap. 551, acts of 1890–91) confer upon the Secretary of the Treasury the power assumed, to arrest and remove from the United States an alien who may be found dwelling in this country, because he is poor and, in the opinion of the Secretary, likely to become a public charge?” The district court seemed to think that the case depended upon the meaning of chap. 551, acts of 1890–91, approved March 3, 1891, and upon its interpretation of the same rendered its decision July 20, 1899, in favor of the petitioner and to the effect that the Secretary of the Treasury did not have the power he had attempted to exercise.

In delivering the opinion of the court District Judge Hanford spoke, in part, as follows:

As the result of my analysis of this statute [act approved March 3, 1891, above referred to], I find that its elements are: First. Prohibition of immigration into the United States of certain specified classes, including paupers or persons likely to become a public charge. Second. To make the prohibition effective, persons and corporations who import or assist aliens of the prohibited classes to come into the United States are subjected to penalties. Third. Officers are provided, charged with the duty and clothed with authority to inspect aliens upon their arrival, and to prevent the entry into the United States of those who appear to belong to the prohibited classes. These officers are fully empowered to receive and consider evidence, and to decide as to the right of an



alien to enter, and their decisions are made conclusive, subject only to review by their superiors up to the head of the Treasury Department, and all aliens who are by the inspection officers found to have come to the United States unlawfully shall be sent back on the vessel by which they were brought in. Fourth. Aliens belonging to the excluded classes, who have succeeded in making their way into the United States, may at any time within one year after arrival be proceeded against in a lawful manner, and returned to their own country. But the law does not confer power upon ministerial officers to arrest them, or adjudicate any controverted question respecting their freedom to remain in this country, and it does invest the circuit and district courts with full and concurrent jurisdiction of all causes, civil and criminal, arising under any of the provisions of the act; and I hold that, whenever proceedings affecting the personal liberty of any person who may be found dwelling in the United States shall be instituted pursuant to this law, there must necessarily arise a cause of which the courts have full jurisdiction by virtue of the thirteenth section. In the case of *Nishimura Ekiw v. U. S.* (142 U. S., 651-664, 12 Sup. Ct., 336) the Supreme Court affirmed the validity of the provisions of the eighth section of this act of 1891, conferring power upon the Secretary of the Treasury, and immigration officers acting under his direction, to decide finally all questions as to the right of aliens to enter. And the court held that, as to aliens who have never gained a foothold upon the soil of this country, the inquiry and decision which officers of the executive branch of the Government may make in the due course of administration of the immigration laws is due process of law. But I do not think that the decision in that case, or any decision to which my attention has been directed, justifies the assumption of power by ministerial officers of the United States to arrest aliens and expel them from this country, when such power is not conferred upon such officers in explicit terms by an act of Congress. An act of Congress should not be construed so as to read into it a provision not necessary to its enforcement, and contrary to the letter of the Bill of Rights contained in our National Constitution. The guaranty of personal liberty in the fifth amendment to the Constitution of the United States does not distinguish between citizens and aliens, but lays down the broad principle that no person shall be deprived of life, liberty, or property without due process of law.

For the reasons above stated, I must hold that the detention of the petitioner by the officers of the Treasury Department is not authorized by any law. The statute providing for returning alien paupers to the countries to which they belong is a wholesome provision, and this court has no disposition to obstruct lawful proceedings thereunder. If it is true that this petitioner has become a public charge from causes which existed before he came into the country, the Government should cause an information to be filed against him in a court having jurisdiction to issue proper process for his deportation. He should be given the right to defend against proceedings instituted for the purpose of depriving him of his liberty, and then the question of his right to remain in this country should be determined judicially. The policy of our Government in this respect is well illustrated in the statutes excluding Chinese laborers. Even a Chinaman can not be arrested and expelled without a judicial warrant and a judicial determination of his rights after a hearing. Petitioner discharged.



EMPLOYERS' LIABILITY—CONSTRUCTION OF STATUTE—*Whatley v. Zenida Coal Co.*, 26 *Southern Reporter*, page 124.—In the circuit court of Shelby County, Ala., one Tyre W. Whatley, as administrator of the estate of Thomas J. Whatley, deceased, brought suit against the above-named coal company to recover damages for the death of his intestate. In his complaint he alleged that the deceased was an engineer employed by the coal company to run a pump engine situated down in a coal mine; that coal was drawn up from said mine by means of tram cars drawn up a steep incline on a tramway by a chain which was attached to said cars and wound around a drum at the top near the entrance; that the only means of ingress or egress to and from his work was along this tramway; that while the deceased was leaving the mine in the regular course of his employment three tram cars broke loose from the chain, ran back down the incline with great velocity, and ran off the track and against a prop placed there to support the roof, and knocked the prop against his head, so injuring him that he died in a few hours; that the coal company was negligent in not having provided a manway for the passage of the employees separate from the slope through which ore was brought to the surface; and that the accident was caused through the negligence of the engineer who was running the engine which was drawing the cars up the incline. It was the theory of the complaint that these last two allegations brought the case within the provisions of section 2590, subsections 1 and 5, of the Code of Alabama, which read as follows:

SECTION 2590. When a personal injury is received by a servant or employee in the service or business of the master or employer, the master or employer is liable to answer in damages to such servant or employee, as if he were a stranger and not engaged in such service or employment, in the cases following:

1. When the injury is caused by reason of any defect in the condition of the ways, works, machinery, or plant connected with or used in the business of the master or employer.

\* \* \* \* \*

5. When such injury is caused by reason of the negligence of any person in the service or employment of the master or employer, who has the charge or control of any signal, points, locomotive, engine, switch, car, or train upon a railway, or of any part of the track of a railway.

After a hearing a verdict and judgment were rendered in favor of the defendant, and the plaintiff appealed the case to the supreme court of the State, which rendered its decision May 30, 1899, and reversed the judgment of the lower court, but on points other than those mentioned above.

Upon the above points it sustained the rulings of the circuit court, and, in so doing, Chief Justice McClellan, who delivered the opinion of the supreme court, used the following language:

It can not, as a matter of law, be said to be the duty of persons operating coal mines to cut a manway, different and separate from the slope through which coal is brought to the surface, for the ingress and egress of their employees.



The fifth count [of the complaint] ascribed intestate's death to the negligence of a person in charge of a stationary engine. This person was a fellow-servant of the deceased, and, not being in charge, etc., of an engine on the track of a railway, the defendant is not liable for his negligence in operating the engine under his control.

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EMPLOYERS' LIABILITY—CONSTRUCTION OF STATUTE—*Colorado Milling and Elevator Co. v. Mitchell*, 58 *Pacific Reporter*, page 28.—This action was brought by Anna M. Mitchell against the above-named company in the district court of Larimer County, Colo., to recover damages for the death of her unmarried son, William M. Mitchell. For cause of action she, in substance, averred that on the 7th day of August, 1896, she was employed by appellant to assist in raising a smokestack at its mills, at the city of Fort Collins, which work was under the immediate supervision, direction, and control of one Benjamin F. Hottel, its general manager and representative; that said Hottel, acting for and representing appellant, provided a derrick for lifting said smokestack into position, which was insufficient for that purpose; that by reason of such insufficiency, and the negligent manner and method in which the same was caused to be used by said Hottel, the stack fell, striking said Mitchell, and causing his death. A demurrer was interposed to the complaint on the ground that it did not state facts sufficient to constitute a cause of action, the particular objection being that it failed to allege the giving of any notice of the time, place, or cause of the injury, in compliance with section 2 of the act of 1893, generally known as the "Employers' liability act." The demurrer was sustained and judgment entered dismissing the action. On error to the court of appeals this judgment was reversed on the ground that the complaint showed a complete cause of action under an act approved March 7, 1877, authorizing the recovery of damages for the death of an employee, and requiring no notice. (See Department of Labor Bulletin, No. 22, page 437.) The defendant company then carried the case upon writ of error before the supreme court of the State, which rendered its decision June 19, 1899, and sustained the decision of the court of appeals.

The second section of the act of 1877, referred to above, reads as follows:

Whenever the death of a person shall be caused by a wrongful act, neglect, or default of another, and the act, neglect, or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, then, and in every such case, the person who, or the corporation which would have been liable, if death had not ensued, shall be liable to an action for damages notwithstanding the death of the party injured.

Judge Goddard delivered the opinion of the supreme court, and in the course of the same he used the following language:

The question presented and elaborately argued in the court of appeals was as to whether the action comes within the provisions of the act of



1893, and therefore the service of notice as required by section 2 of the act was essential to its maintenance, or whether the facts alleged constitute a cause of action entitling plaintiff to a recovery under the act of 1877, unaffected by the later act. The court of appeals held that the complaint stated a complete cause of action, and a right to recover under the act of 1877, which was not controlled or affected by the act of 1893. It, however, based its conclusion mainly upon the fact that the title to the act of 1893 limited the right to maintain an action thereunder to the agents, servants, and employees sustaining damages, and did not embrace within its terms any provisions affecting the cause of action, or the recovery of damages sustained by any other person; and that, in so far as the act attempts to regulate, restrict, or in any manner affect actions by one who was in no capacity in the employ of defendant, it is obnoxious to section 21 of article 5 of the constitution, which provides that "no bill except general appropriation bills shall be passed containing more than one subject, which shall be clearly expressed in its title; but if any subject shall be embraced in any act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed." If, in the title to the act, which is "an act concerning damages sustained by agents, servants, and employees," the word "damages" is used in its technical sense to express simply compensation for injuries received, or the amount which the injured party is entitled to recover, the construction given to the title by the court of appeals is manifestly correct. If, on the other hand, we give to it the meaning with which it is frequently used, and of which it is also susceptible as a law term, as expressing "the injury for which compensation is sought;" in other words, as synonymous with "injuries," the title sufficiently expresses the subject treated in the body of the act. We are inclined to accept the latter view, and for the purpose of this review assume the act to be constitutional. If this view be adopted, and force be given to all the provisions of the act of 1893, it does not in any manner repeal, modify, or change any of the provisions of the statute of 1877; nor does it purport to specify all the causes from which a right of action may accrue in favor of an employee against an employer. Section 1 of the act, which is the only section which undertakes to specify the causes for which an injured employee may recover, is as follows:

"SECTION 1. Where, after the passage of this act, personal injury is caused to an employee, who is himself in the exercise of due care and diligence at the time, (1) by reason of any defect in the condition of the ways, works, or machinery connected with or used in the business of the employer, which arose from or had not been discovered or remedied owing to the negligence of the employer, or of any person in the service of the employer, and intrusted by him with the duty of seeing that the ways, works, and machinery were in proper condition; or (2) by reason of the negligence of any person in the service of the employer, intrusted with or exercising superintendence, whose sole or principal duty is that of superintendence; (3) by reason of the negligence of any person in the service of the employer who has the charge or control of any switch, signal, locomotive, engine, or train upon a railroad, the employee, or in case the injury results in death the parties entitled by law to sue and recover for such damages, shall have the same right of compensation and remedy against the employer as if the employee had not been an employee of or in the service of the employer or engaged in his or its works."

Clauses 1 and 2, which are the only provisions which can be said to



have any bearing upon the case in hand, are, so far as they go, but a legislative recognition of the principles laid down in the former decisions of this court. At the time they were enacted it was settled law in this State that the master was bound to personally see that reasonable care was used in providing reasonably safe and proper machinery and appliances for use in his business, and to use reasonable care in maintaining the same in suitable condition, and that agents to whom he delegated the duty of procuring the machinery, and the duty of inspecting and keeping the same in suitable repair, were not regarded as fellow-servants with those employed in the business in which such machinery and appliances were used, and therefore the master was liable for injuries resulting, without contributory negligence on their part, to other servants through the negligence or want of due care on the part of such agents in discharging their duties in these respects, and was also liable for the negligence of the person to whom he delegated the duty of superintendence.

It is obvious, therefore, that clauses 1. and 2 create no new cause of action nor deprive the employer of any defense that existed at common law, unless it may be said that clause 1 operates to exclude the defense of implied assumption of risk on the part of the employee. Clause 3 gives a right to recover compensation for the death of or injury to an employee caused by the act or omission of a class of persons for whose negligence the master was not answerable at common law, and therefore creates a new right of action, or, perhaps it may be more properly said, abolishes the defense that the negligence causing the injury was that of a fellow-servant. It is manifest, therefore, that the intent of the act is at most to abolish certain defenses in certain specified cases, and in such cases to impose a compensatory limitation on the right to sue, but in no manner to prejudice the common-law rights of employees or to interfere with the enforcement of any right that the statute itself does not create.

The negligence complained of in the case at bar was that of the defendant itself in failing to exercise due care in providing a safe and proper appliance for raising the smokestack. The complaint charges this negligence both upon the defendant company and its manager, and also charges that the manager used the appliance in a grossly negligent manner. If it may be said that under these averments the default of the company was not the sole producing cause of the injury, but that the negligence of the manager also contributed thereto, it is immaterial, since it appears from the complaint that the manager was acting as the vice-principal of the company, and hence his negligence was the negligence of the company. To whichever cause the injury is attributable, Mitchell, had he lived, would have been entitled to maintain an action and recover therefor at common law; and, death having ensued, a complete cause of action is alleged in favor of appellee under the statute of 1877.

Counsel for appellant concede that an employee who survives an injury can still avail himself of his common-law remedy, notwithstanding the statute of 1893, but contend that the same rule does not apply to one whose right of action is given by the statute of 1877. We can not see any reason for this distinction, or perceive why the right of action created by the statute is abrogated by the subsequent act, any more than one that existed at common law, since no such intention is indicated in terms or by implication. It is well settled that a statute providing a new remedy for an existing right does not take away a preexisting remedy without express words or necessary implication.



The same rule of construction is applied to statutes in derogation of existing statutes as applies to those in derogation of common law, and the same presumption obtains that no change is intended, unless the later statute is clear and explicit to that effect.

The statute of 1893, as we have before stated, does not attempt in any manner to repeal, modify, or restrict any of the provisions of the statute of 1877, nor to change or abridge any right or remedy thereby given. It merely provides that the parties who were entitled by law to sue in case the injury results in death shall have the same right of compensation and remedy that it gives to the employee. In other words, its plain purport and intent is to extend to the parties designated in the act of 1877 the right to recover for an injury resulting in death under the same circumstances that would have entitled the employee to maintain the action if death had not ensued. The right, therefore, of appellee to maintain this action under the act of 1877 is not affected by the later act, and no notice was required as a condition precedent to the maintenance of the action, and the court of appeals correctly held that the district court erred in sustaining the demurrer to the complaint on the ground of failure to allege such notice. Its judgment is accordingly affirmed.

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EMPLOYERS' LIABILITY—CONSTRUCTION OF STATUTE—*Indianapolis Gas Co. v. Shumack*, 54 *Northeastern Reporter*, page 414.—In the circuit court of Hamilton County, Ind., one William M. Shumack recovered a judgment in a suit for damages brought by him against the gas company above named on account of injuries incurred by him while in its employ. The company appealed the case to the appellate court of the State, which rendered its decision June 28, 1899, and sustained the judgment of the lower court.

The facts in the case are fully set out in the opinion of the appellate court, which was delivered by Judge Robinson, and from the syllabus of said opinion the following is quoted:

2. Plaintiff was repairing a leak in a gas main under the direction of defendants' superintendent, who instructed plaintiff to get into the trench and remove the defective pipe. While plaintiff was in the trench the superintendent approached with a lantern, which ignited the escaping gas and injured plaintiff. Held, that plaintiff was injured through the negligence of the superintendent, while working under his orders, within Burns' Rev. St., 1894, § 7083 (Horner's Rev. St., 1897, § 5206s), making a corporation liable for injury to an employee "where such injury resulted from the negligence of any person in the service of such corporation to whose orders or direction the injured employee at the time of the injury was bound to conform, and did conform."

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EMPLOYERS' LIABILITY—RAILROAD COMPANIES—CONSTRUCTION OF STATUTE—*Louisville, New Albany and Chicago Railway Co. v. Wagner*, 53 *Northeastern Reporter*, page 927.—Action was brought by George Wagner against the above-named railway company to recover damages for personal injuries. In the circuit court of Clark County,



Ind., a judgment was rendered in his favor, and the defendant company appealed the case to the supreme court of the State, which rendered its decision May 23, 1899, and sustained the judgment of the lower court.

The facts of the case are clearly set out in the opinion of the supreme court, which was delivered by Judge Hadley, and the following is quoted therefrom:

The special verdict of the jury discloses the following facts: Ine Cunningham was the duly constituted foreman of a gang of 10 or 12 men, common laborers, of whom the appellee was one, all, including Cunningham, employees of appellant, and engaged in loading car trucks, composed of four wheels, axles, and gearing, and weighing about 2,500 pounds, upon a flat car for transportation. By the method pursued, which was the usual and ordinary way, the trucks were placed upon the rails occupied by the flat car to be loaded, about 50 feet distant. Then two wooden skids 15 feet long, made for and suitable to the purpose, were arranged by placing ends on top of the flat car and the other ends upon the rails toward the trucks. The 10 or 12 men, including appellee, were all subject to the orders of Cunningham, and were bound to conform, and did conform, to his orders. Ordinarily the men, being placed about the truck, some to the sides and three to the rear, two outside and one between the skids, by their united effort, under the orders of Cunningham, would push the trucks along rapidly, and, by the momentum attained, would be able to carry the trucks halfway up the skids before stopping and when a stop was made Cunningham, in addition to giving orders, would chock the trucks with a piece of timber. From the first stop to the top of the car movement was made by short stages. On the occasion of appellee's injury it had been raining and the skids were slightly wet. The men were directed to their places about the truck by Cunningham, appellee taking his place in the rear, between the skids, in conformity to Cunningham's order. The truck was put in motion and forced more than two-thirds of the way up the skids, where it stopped and began slipping back; whereupon, while appellee was exerting his strength in pushing at the truck and without any notice or warning to appellee, Cunningham ordered the men to "get out of the way and let her go." The other men obeyed the order immediately, and the truck at once rushed back and down the skids, striking appellee in the breast, precipitating him backward to the track, his arm falling across the skid, where it was run over by the truck and crushed. Appellee had no warning or knowledge that said order would be given by Cunningham, and could not escape from between the skids, or from the descending truck, after it was given. The other men could have held the truck until appellee could have escaped from between the skids, if they had been requested or ordered by Cunningham so to do. Appellee and the said other men engaged with him in attempting to load said truck were at the time and place of appellee's injury bound to conform, and were conforming, to the orders of Cunningham in all things respecting the loading and letting go of said truck. Appellee was without fault. Appellant's demurrer to the complaint was overruled; also its motion for venire de novo, for judgment in its favor on the special verdict, and for a new trial. Error is assigned upon each ruling of the court; but the special verdict fully supports the averments of the complaint, and the only proposition discussed relates to the plaintiff's right to recover under the averments of his complaint and the verdict returned in support thereof.



The discussion centers around the second subdivision of section 1, page 294, acts 1893 (sec. 7083, Burns' Rev. Stat., 1894; sec. 5206s, Horner's Rev. Stat., 1897), commonly known as the "Employers' liability act," which is in these words: "First. That every railroad or other corporation, except municipal, operating in this State, shall be liable in damages for personal injury suffered by an employee while in its service, the employee so injured being in the exercise of due care and diligence, in the following cases: \* \* \* Second. Where such injury resulted from the negligence of any person in the service of such corporation, to whose orders or direction the injured employee at the time of the injury was bound to conform and did conform."

The question we have here is not to be controlled by the general doctrine of fellow-servants or of assumed risks; hence the cases cited by appellant upon these questions can not be accepted as authorities in the case at bar. The statute above set out is clear and free from ambiguity. We can not interpret it. We may only read it. The statute places the case upon a principle different from that in support of the coservant's rule and the assumption of risk. The test here is threefold: (1) Was the offending servant clothed by the employer with authority to give orders to the injured servant that the latter was bound to obey? (2) Did the injury result to the latter from the negligence of the former while conforming to an order of the former that the injured servant was at the time bound to obey? (3) Was the injured party at the time of injury in the exercise of due care and diligence? If these three things concur, appellee exhibits a good cause of action.

These averments [of the complaint] are all established by the special findings of the jury. And the jury also finds that the other men might and would have held the truck long enough for the plaintiff to have safely escaped if they had been requested or ordered by Cunningham to do so.

In this case the plaintiff was in a dangerous place in obedience to the orders of Cunningham, whom he was at the time bound to obey, and, without giving the plaintiff warning or a chance to escape, as he might have and ought to have done, Cunningham ordered the men to loose the truck. The men instantly obeyed, as they were bound to do, and thus precipitated the truck upon the plaintiff, crushing his arm. The order to loose the truck was the proximate cause of plaintiff's injury. And it was both directing the plaintiff into a dangerous situation, that he was thus bound to enter, and then ordering the truck turned loose upon him without warning, that constitutes the actionable wrong. The facts found bring this case within the spirit and letter of the statute. We find no error in the record. Judgment affirmed.

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LABORERS' LIENS—SUPERIORITY OF SAME TO LIEN OF PRIOR MORTGAGE GIVEN TO SECURE PURCHASE MONEY—*Georgia Loan, Savings and Banking Co. v. Dunlop et al.*, 33 *Southeastern Reporter*, page 882.—Action was brought by H. C. Dunlop and others in the superior court of Fulton County, Ga., against S. W. Postell, to enforce laborers' liens under section 2792 of the Civil Code, edition of 1895. The Georgia Loan, Savings and Banking Company was, by order of the court, made a party, and its action to foreclose a mortgage consolidated with the plaintiffs' suit. A judgment was rendered in favor of the plaintiffs,



and the above-named company carried the case on writ of error before the supreme court of the State, claiming that the mortgage held by it should have been first satisfied and paid out of the assets of the bankrupt, Postell, before the laborers' liens were paid. The court rendered its decision July 21, 1899, and, in affirming the decision of the lower court, held that the laborers' liens were superior to the lien of the mortgage. Section 2792, above referred to, reads as follows:

Laborers shall have a general lien upon the property of their employers, liable to levy and sale, for their labor, which is hereby declared to be superior to all other liens, except liens for taxes, the special liens of landlords on yearly crops, and such other liens as are declared by law to be superior to them.

The opinion of the supreme court was delivered by Judge Cobb, and the syllabus of the same, prepared by the court, is in the following language:

1. Affidavits, one alleging that the affiant is "a laborer and mechanic, and that as such" he was employed "to work and labor" in a printing office; and the other, in addition to the above, setting up that the affiant was employed as a "job printer," are sufficient to be the foundation of proceedings to foreclose the general laborers' lien provided for in section 2792 of the Civil Code.

2. Such a lien is superior to the lien of a mortgage older in date than the contract of labor and given to secure the purchase money on the property against which the laborers' lien is sought to be enforced.

3. The fact that such a mortgage has been foreclosed, and execution levied, and the property redelivered to the mortgageor upon the execution of a forthcoming bond, does not prevent such a lien from attaching to the property, and this is true though the contract of labor was entered into after the redelivery of the property under the forthcoming bond. Whether or not in such a case the sureties on the forthcoming bond would be liable to the plaintiffs in the mortgage-foreclosure proceeding, as for a failure to redeliver the property to the levying officer, when called for in terms of the law, in the same condition it was in when the bond was given, is a question not made by the present record.

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PROCEEDINGS UNDER THE UNITED STATES BANKRUPTCY LAW—  
PRIORITY OF LIENS FOR WAGES PERFECTED UNDER STATE LAW—  
*In re Kerby-Dennis Co.*, 95 *Federal Reporter*, page 116.—This was a review of an order of the United States district court for the eastern district of Wisconsin, made in bankruptcy proceeding by the United States circuit court of appeals, seventh circuit. The court of appeals rendered its decision June 14, 1899, and affirmed the order of the lower court.

The facts of the case are sufficiently stated in the opinion of the court of appeals, which was delivered by Circuit Judge Jenkins, and from which the following is quoted:

The Kerby-Dennis Company, a corporation under the laws of the State of Wisconsin and doing business at Marinette, in that State,



was duly adjudged a bankrupt, in the district court of the United States for the eastern district of Wisconsin, upon a petition filed November 1, 1898, being at the time the owner of a large amount of logs, posts, ties, and shingles, upon and in the production of which labor had been performed, within three months prior to the filing of the petition in bankruptcy, by a number of laborers, including the petitioners. The labor claimants are divisible into two classes, the one class comprising those who, on the 27th of October, 1898, filed claims for liens with the clerk of the circuit court of Alger County, in the State of Michigan, where the product was situated, for the amount of the indebtedness due them, respectively, for work and labor, and who thereafter prosecuted suits against the bankrupt corporation and seized the property upon which the labor had been performed. The other class of claimants is composed of those who had performed like services in the production of the property but had failed to file claims for liens under the statute of the State of Michigan. That statute provides that any person performing labor or services in manufacturing lumber or shingles "shall have a lien thereon for the amount due for such labor or services, and the same shall take precedence of all other claims or liens thereon." The statute also provides that any such debt, demand, or claim shall not remain a lien on any of the mentioned products unless a statement thereof in writing, made under oath by the claimant or someone in his behalf, shall be filed in the office of the clerk of the county in which such labor or service was performed, which statement of lien shall be filed within thirty days after the completion or last day of such labor or service; and that any sale or transfer of the products upon which the lien is claimed during the time limited for the enforcement of the same shall not affect the lien, but the lien shall remain, and be enforced against such products, in whosoever possession the same shall be found. The statute also provides that the lien may be enforced by attachment against any of the products in the designated courts of the State, and that such lien claims shall cease to be a lien upon the property named in such statement unless suit be commenced within three months after the filing of the statement for lien. (3 How. Ann. St. Mich., §§ 8427a-8427p.)

The referee in bankruptcy, on April 25, 1899, directed the trustee to apply the fund to the payment of a pro rata dividend upon all the claims for labor and services approved and allowed by the court, entitled to priority under the provisions of subdivision 4, par. b, § 64, of the national bankruptcy act, "without distinction or preference as to whether said labor claims had secured or attempted to secure liens upon any of the property of said bankrupt prior to the adjudication in bankruptcy, under the provisions of sections 8427a-8427p of Howell's Annotated Statutes of the State of Michigan." The district court, on the 23d day of May, 1899, reversed that order, and adjudged that the claims of those who had filed their statements of liens were entitled to priority of payment out of the proceeds of the property covered thereby, as against the claims of laborers who had no liens, under any State law or otherwise, upon the property, and that the proceedings in the State court to secure the liens were unaffected by the proceedings in bankruptcy, and entitled to recognition by the bankruptcy court with the same force and effect as though the same had been enforced in the courts of the State. Whereupon, on the 3d day of June, 1899, the claimants so postponed filed their original petition in this court, asking for a review and reversal of the order of the district court and for instruction to the trustee to apply the proceeds of the property without distinction or preference.



The question presented is whether these labor liens secured by the statute of Michigan should be preferred to the claims for like work not so secured. We cannot doubt that the statute of Michigan gives to a laborer a lien for his services which results from the performance of and exists from the commencement of the work, and is not created by the proceedings to enforce the lien, but only continued or secured thereby. The proceedings under the statute are merely the means for the preservation and enforcement of a preexisting lien, given by the statute and arising from the performance of the service.

It is insisted, however, that the bankruptcy act does not preserve these liens. It is said that to hold them valid would be in antagonism to subdivision f of section 67 of the act, which provides "that all levies, judgments, attachments, or other liens obtained through legal proceedings against a person who is insolvent at any time within four months prior to the filing of a petition in bankruptcy against him shall be deemed null and void in case he is adjudged a bankrupt, and the property affected by the levy, judgment, attachment, or other lien shall be deemed wholly discharged and released from the same and shall pass to the trustee as a part of the estate of the bankrupt," etc. But it is to be observed that the lien in the case before us was not obtained through "legal proceedings." It is a creature of the statute, arising from and immediately upon the performance of labor. The legal proceedings contemplated by the statute do not create a lien, but enforce a lien already existing.

It is also urged that since the bankruptcy act does not, as did a former bankruptcy act, expressly reserve liens of this character, therefore they are not entitled to protection. It is possible, perhaps, for Congress to interfere with vested rights and to impair obligations of contracts; but such legislation would be opposed to equity and good conscience, and the intention of Congress so to enact can not be presumed in the absence of clear and unmistakable expression. We find in the bankruptcy act no such design. To the contrary, we find provisions, like that quoted, which direct that certain liens shall be invalid. It is clear to us that the design of Congress was to protect all liens, whether arising by contract or by statute, and only to avoid those which are in fraud of the act and those which have been secured by and arise from legal proceedings within the limited time specified before the bankruptcy.

The question is not affected by the provisions of section 64, subdivisions a, b. That section directs the order of distribution of the estate after the assets have been marshaled and the liens discharged, and provides for the priority of payment of labor claims not otherwise secured. It is true that the petitioners here, with respect to the character of their services and labor, stand equal in equity to the claims of those which were allowed preference by the decision of the court below. The apparent inequity in now denying equality results, however, not from the bankruptcy act, but from their own omission to comply with the requirements of the local law. Both of these classes of laborers had liens upon the product upon which their labor was expended. The one class preserved their liens by proper proceedings, which the statute giving the lien rendered imperative for its continuance. The other class omitted so to do, and therefore, by force of the statute which created the right, the lien is gone forever. We are of opinion that the decree of the court below is correct and must be affirmed, and that the prayer of the petitioners should be denied.



SEAMEN—UNWARRANTED DESERTION OF VESSEL—FORFEITURE OF WAGES—*The C. F. Sargent*, 95 *Federal Reporter*, page 179.—This was a libel in rem against the above-named vessel, brought in the United States district court for the district of Washington, northern division, for the recovery of wages as seamen. The libelants left the vessel at Seattle, before the voyage for which they had shipped was completed, and without the master's consent.

The further facts are sufficiently shown in the opinion of the district court, delivered by District Judge Hanford. The following is quoted therefrom:

In the testimony and the argument there appears to have been a contention as to whether or not the fore-castle where the men slept in the ship was heated and made comfortable as required by existing laws but no complaint or request respecting that matter was made to the captain. Therefore, whatever the fact may be as to the actual condition of the sailors' quarters, the libelants were not justified in leaving the vessel on account of any such defect.

The libelants' demand, as set forth in their libel, is for the amount of wages which they respectively earned by service in the ship pursuant to their contract; and, as they have stated their case, it is simply a demand for wages. There is no question but what the libelants worked faithfully on the voyage from Tacoma to Honolulu, and while the vessel lay at Honolulu and on her return passage to Seattle, and only a part of the wages which they earned has been paid to them.

It is my opinion that the libelants were not justified in leaving the ship without the masters' consent by reason of the unseaworthiness of the vessel. The vessel was in a leaking condition on the trip from Tacoma to Honolulu, and it was necessary for the crew to perform considerable labor in manning the pumps; but the vessel did not become water-logged, and she reached Honolulu in safety, and on the return trip to Seattle, when she was light, she took in very little water. After arrival at Seattle, and before the libelants left her, a carpenter employed by the master located the leak and stopped it, and after taking on cargo a certificate of seaworthiness was given to the vessel by an agent of the underwriters, who is an experienced mariner, and who gave a careful examination and found her to be in a seaworthy condition, and who has testified as a witness in this case that he did examine the ship and that she appeared to him to be staunch and fit to go to sea, and that he would not have given the certificate if he had not believed that she could make the voyage to San Francisco safely. The United States inspector of hulls of steam vessels has also appeared as a witness in this case, and testified that he found the ship to be seaworthy. Under the circumstances shown by the uncontradicted evidence, the seamen were not authorized to determine the question as to the seaworthiness of the ship, and they can not be relieved from their obligation to perform their contract, under the shipping articles which they have signed, on the ground of unseaworthiness. If they in good faith believed that it was unsafe for the ship to go to sea, they might have demanded a survey, which, if fairly made by competent persons, would be treated by the court as conclusive for the purpose of determining whether the men should or should not be discharged before completion of the voyage.

The contract contained in the shipping articles signed by the libelants provides for a term of service, and not merely for service upon a



specified voyage. By said contract the libelants bound themselves to serve as mariners on board the C. F. Sargent on her contemplated voyage, and for a term described as follows:

"From the port of Tacoma to Honolulu, H. I., and back to San Francisco, Cal., as a final port of discharge, either direct or via one or more ports on the Pacific coast, for a term of time not exceeding nine calendar months."

This contract is worded to meet fairly and fully the requirements of section 4511, Rev. Stat. U. S., which prescribes that every agreement of seamen to serve in American vessels shall set forth definitely, among other things, "the nature and, so far as practicable, the duration of the intended voyage or engagement, and the port or country at which the voyage is to terminate." This contract is certainly definite as to the duration of the engagement, and specifies the port of final discharge. It is a lawful contract, broken by the libelants by their having quit the service of the ship before her arrival at San Francisco, or the expiration of the term of nine months, without the master's consent; and the penalty for the breach of their contract is forfeiture of their wages. A decree will be entered dismissing the libel.

## DECISIONS UNDER COMMON LAW.

**EMPLOYERS' LIABILITY—MASTER'S DUTY AS TO FURNISHING SAFE APPLIANCES—***Western Coal and Mining Co. v. Berberich*, 94 *Federal Reporter*, page 329.—Joseph Berberich, a coal miner, while employed by the above-named company in its mines at Denning, Ark., was injured by an explosion of gas or fire damp, and brought suit for the recovery of damages against said company. A judgment in his favor was rendered in the United States circuit court for the western district of Arkansas, and thereupon the defendant company appealed the same to the United States circuit court of appeals, eighth circuit, which rendered its decision April 10, 1899, and affirmed the judgment of the lower court.

An important point of the decision is quoted below, in the language of Circuit Judge Caldwell, who delivered the opinion of the court of appeals:

It is assigned for error that the court, in the course of its charge, told the jury:

"It was the duty of the defendant to use all appliances readily attainable, known to science, for the prevention of accidents arising from the accumulation of gas or other explosive substances in its mines."

In the case of *Mather v. Rillston* (156 U. S., 391, 15 Sup. Ct., 464), which was an action to recover damages for personal injuries resulting from the explosion of powder and caps in an iron mine, the court discusses at length the duty of mine owners to their employees, and laid down the following rule:

"Occupations, however important, which can not be conducted without necessary danger to life, body, or limb, should not be prosecuted at all without all reasonable precautions against such dangers afforded by science. The necessary danger attending them should operate as a



prohibition to their pursuit without such safeguards. Indeed, we think it may be laid down as a legal principle that in all occupations which are attended with great and unusual danger there must be used all appliances readily attainable, known to science, for the prevention of accidents, and that the neglect to provide such readily attainable appliances will be regarded as proof of culpable negligence."

It will be observed that the clause of the court's charge excepted to is "laid down as a legal principle" by the Supreme Court. The charge is not that the defendant must use "all appliances attainable," etc., but all appliances "readily attainable." This is imposing a very reasonable burden, for "readily," according to the dictionaries that are accepted authority, means "quickly, speedily, easily (Century Dictionary); at hand, immediately available, convenient, handy (Standard Dictionary)." In effect, the contention of the plaintiff in error (the coal company) is that the court should have charged the converse, and told the jury that in occupations attended with great and unusual danger there is no obligation resting on the employer to use the appliances known to science for the prevention of accidents, although they are readily and easily obtainable and immediately available, convenient, and handy. The law has not yet reached that degree of barbarity.

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EMPLOYERS' LIABILITY—MASTER'S DUTY—DELEGATION OF ITS PERFORMANCE—*Hustis v. James A. Banister Co.*, 43 *Atlantic Reporter*, page 651.—In the circuit court of Essex County, N. J., one Henry H. Hustis recovered a judgment, in a suit brought by him against the above-named company, for damages for injuries sustained by him while in the employ of said company. The evidence showed that the general care of the mechanical equipment of the defendant's shoe factory was intrusted to its treasurer, John W. Denny; that under him was Charles F. Carr, an engineer and machinist, who ran the engine and inspected and repaired all the machinery, reporting to Mr. Denny such defects as he could not himself remedy; that a loose coupling in a line of heavy overhead shafting, suspended from the ceiling in a hanger, was noticed; that an expert mechanic called in by Mr. Denny advised that this shafting should be taken down, but on instructions from Mr. Denny repaired it in place; that there was a bend in one of the coupled pieces which threw the shaft out of alignment, for the removal of which firing and straightening were necessary; that a few days after the repairs were finished a bolt broke and fell out of the coupling, and was taken to the engineer, Carr; that about one month later another bolt broke and was taken to Carr, and that in the afternoon of the same day, while the plaintiff was at work sorting shoe soles under this shafting, the coupling gave way and the hanger broke, letting down a heavy piece of shafting which struck the plaintiff and caused the injuries for which he brought suit. The defendant company appealed the case to the supreme court of the State, which rendered its decision June 12, 1899, and affirmed the decision of the lower court.



Judge Collins delivered the opinion of the supreme court, and the syllabus of the same, prepared by the court, reads as follows:

1. A master, charged with the duty to use reasonable care that overhead shafting in a factory shall be supported and maintained so as not to endanger the safety of servants working underneath it, can not escape liability for a breach of that duty by delegating its performance to an engineer placed in charge of the machinery in the factory.

2. Inspection and repair necessary to the safe support and maintenance of overhead shafting in a factory is not to be considered as merely incidental to the running of the engine with which it is connected.

EMPLOYERS' LIABILITY—RAILROAD COMPANIES—SUIT FOR DAMAGES AGAINST RECEIVERS OF RAILROAD COMPANY—*Smith v. St. Louis and San Francisco Railway Co. et al.*, 52 *Southwestern Reporter*, page 378.—Suit was brought against the above-named railway company and its receivers by William H. Smith, a locomotive fireman, to recover damages for injuries incurred by him while in the employ of said company. In the circuit court of Newton County, Mo., a judgment was rendered in his favor and the defendant company appealed the case to the supreme court of the State, which rendered its decision July 12, 1899, and reversed the decision of the lower court. The grounds of said reversal were various, but the most important point decided was that an action against a railroad company, accruing before the appointment of receivers, can not be maintained against the receivers without first obtaining consent of the court appointing such receivers.

Judge Marshall, who delivered the opinion of the supreme court, spoke as follows upon the above point:

This proceeding against the receivers appointed by the circuit court of the United States for the eastern district of Missouri is without any permission or authority from that court, and hence can not be maintained. The cause of action did not arise or accrue while the receivers were in charge of and conducting the business, and therefore the plaintiff does not come within the provisions of the act of March 3, 1887 (24 Stat., p. 554) [providing that a receiver may be sued without the previous leave of the court in respect of any act or transaction of his in carrying on the business].

The accident complained of occurred on the 20th of October, 1893, and the receivers were not appointed until December 23, 1893. Receivers are officers of court to hold and manage property which is in the registry of the court, and persons having any claim to property so situated must submit their claims to the court that has obtained jurisdiction over the res, and the court will not permit its officers to be sued in any other tribunal without its consent. This is not only a law of comity among courts, but is a jurisdictional necessity, for it is manifest that two courts could not, acting separately, successfully manage the property or harmoniously distribute it.

The petition does not aver that the consent or permission of the United States circuit court to sue its receivers was asked or obtained before this action was begun, and there is a total lack of any evidence



of such steps having been taken. The action can not, therefore, be maintained, and the judgment against the receivers, or, as amended, that the judgment against the company be certified to the receivers, is reversed.

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EMPLOYERS' LIABILITY—RAILWAY RELIEF FUND—ACCEPTANCE OF BENEFITS THEREFROM TO OPERATE AS RELEASE OF CLAIM FOR DAMAGES FOR INJURIES—*Beck v. Pennsylvania Railroad Co.*, 43 *Atlantic Reporter*, page 908.—An action brought by Henry Beck against the above-named railroad company, for the recovery of damages for injury incurred by him while in the employ of said company, was heard in the court of errors and appeals of the State of New Jersey and a judgment was rendered in his favor. The defendant company carried the case on writ of error before the supreme court of the State, which rendered its decision June 19, 1899, and reversed the judgment of the lower court. In the lower court the defendant company proved that it and some of its employees had established a relief fund, under regulations requiring the members to contribute certain sums out of their wages, and requiring the company to take charge of the fund, to manage it at its own expense, and out of it to make payment of certain specified benefits to sick or injured members, or, in case of the death of a member, to a beneficiary named by him, and, in case the fund was insufficient to make such payments, to supply the deficiency; that plaintiff had become a member, and in his application had agreed that the acceptance of benefits from the fund for injury or death should operate as a release of all claims for damages against the company arising from such injury or death, and that, after the injury for which the action was brought, plaintiff accepted such benefits. The trial judge, on motion in behalf of the plaintiff, overruled and excluded this evidence. In its decision the supreme court held that action of the judge was error, because the transaction created a contract between the company and its employee which was not against public policy, nor lacking in mutuality or consideration, nor beyond the power of the company to make, and because it was not an insurance contract, within the meaning of the State insurance law.

The opinion of the supreme court was delivered by Chief Justice Magie, and in the course of the same he used the following clear and instructive language:

The learned trial judge held the contract between the parties to this action to be opposed to public policy, because he construed it to be a contract by the employee to relieve the employer of its liability to answer for injuries occasioned by its neglect of duty to the employee, and a stipulation on the part of the employee not to hold the employer liable in any event for such injuries. If such is the true construction of the contract, I should not hesitate to assent to the view that it was invalid, for the law will not tolerate a contract between parties by which one agrees that the other may commit a tort to his injury with impunity



and without liability to answer for damages. Such a contract would be opposed to public policy. But, in my judgment, such is not the correct construction of the contract now under consideration. I think it plainly apparent that the employee, or his representative, is not debarred by this contract from maintaining such an action [for damages for injuries], but there is an option afforded thereby, either to seek redress by action or to accept the benefits stipulated for from the fund. The exclusion of the right of action can only arise by the acceptance of the employee of the optional rights to benefits. I can perceive no reason why such a contract may not be made, and find in it no opposition to the policy of the law.

What has been said respecting the contract in question disposes also of the objection that it was without consideration or lacking in mutuality. Each of the contracting parties became bound to the other. The contract of each was a legal and sufficient consideration for the contract of the other, and thereby each was mutually bound.

But it is further contended that this contract on the part of the company is *ultra vires*. I will assume that the company was created to build, maintain, and operate a railroad in the State of Pennsylvania, and obtained corporate powers sufficient to enable it to carry out that purpose. We know that it has acquired power in our own State to lease and operate railroads in extension of its system. Upon such assumption and knowledge, we must recognize that it has either express or implied power to engage the services of many men, and contract with them as to the compensation they shall receive for their services. Each of such employees is engaged in an employment which subjects him to the hazard of injury and the danger of death. Each is possessed of the liberty to contract with the employer respecting his compensation. A contract by which an employee permits such an employer to create a fund in part out of his wages, supplemented by a contribution by the employer, when necessary, out of which relief for sick and injured employees is provided, and by which the employer undertakes to manage the fund and furnish the agreed-on relief is, in my judgment, within the implied powers of the employer if a corporation. On the part of the employer such a scheme may be deemed likely to increase the efficiency of the force it employs, and on the part of the employee it may tend to relieve from anxiety as to support if injured by any of the many dangers to which he is daily and hourly exposed. As incidental to the contract of employment and compensation, therefore, it is not *ultra vires*.

One question remains to be considered, and that is whether the contract which has been found to have been made between the parties is one prohibited by the provisions of our legislation on the subject of insurance. The contention of defendant in error is that by our laws no contract to indemnify any person against loss by casualty to property or health or life can be made by any corporation except one incorporated for that purpose under our laws, or a corporation of a foreign State formed for that purpose, which has complied with our laws, and obtained authority to transact its business in this State. If it be conceded that this contention properly exhibits the scope of our laws on this subject, I do not think it effective in respect to the contract now under consideration, because, in my judgment, such a contract is not one of insurance within the meaning of these laws. The purpose of the legislation appealed to is to regulate the business of insurance of various kinds by corporations who propose to do such business, and who hold themselves out as ready to contract for insurance with any person who applies and



agrees to the terms on which they offer to insure. If it be conceded that such business is a proper subject of legislative regulation, it is obvious that such regulations are not to be extended beyond the business intended to be regulated. The scheme of the relief department of this company does not contemplate a business of that sort. Such an association [a railway relief association] creates its own fund by voluntary action, and distributes it by an agreed-upon plan; and the contract is not of insurance, but of beneficial relief.

None of the objections to the contract being found to affect its validity, it results that it was erroneous to overrule the evidence of its existence, and its performance on the part of the company, and of the acceptance by Beck of benefits thereunder. Under that evidence the defense of the company was perfect, unless it was met by counter evidence denying the existence of the contract or the acceptance of the benefits by Beck. The judgment must therefore be reversed.

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SEAMEN—DAMAGES FOR PERSONAL INJURIES—LIABILITY OF OWNER OF VESSEL FOR NEGLIGENCE OF THE MASTER—*Olson v. Oregon Coal and Navigation Co.*, 96 Federal Reporter, page 109.—This was a suit in admiralty brought by one Olson, a ship carpenter, against the above-named company, in the United States district court for the northern district of California, to recover damages for personal injuries. The court rendered its decision August 3, 1899, giving judgment in favor of the defendant company.

From the opinion of said court, delivered by District Judge De Haven, and setting out the facts in the case, the following is quoted:

This is a suit in admiralty to recover \$15,000 damages for personal injuries alleged to have been received by the libelant on board the steamer Empire. The libel alleges, in substance, that on the 22d of February, 1897, the defendant was the owner of and engaged in operating the steamer Empire, and the libelant was employed thereon in the capacity of ship carpenter; that on the date named the said steamer, with the libelant on board, left the harbor of San Francisco, bound on a voyage to Coos Bay, in the State of Oregon; that she had no cargo on board and was light, and "by reason thereof liable to sudden, unusual, and violent motions when in waters agitated by the wind;" that on the day named there was a heavy sea on the bar at the entrance of San Francisco Harbor; that, although there were hatch covers on board the steamer, the defendant negligently and carelessly operated her on that day with the afterhatch uncovered, "and thereby made the deck of the said steamer Empire, unsafe and dangerous; and while the libelant on said day was performing his duty upon the said steamer as such ship carpenter, and in the performance of his duties as such carpenter was going from the afterpart of the said vessel to the forward part, he, without any fault on his part, was thrown from his feet by a roll of the said steamer Empire, and, by reason of the afterhatch of the said steamer being uncovered, he was thrown down the afterhatch of said steamer \* \* \* and thereby suffered a compound comminuted fracture of the right thigh," and by reason thereof was compelled to go to the United States Marine Hospital at San Francisco, where he has been since confined, "and has suffered great physical pain and mental anguish by reason of the premises aforesaid, and for like reason has become per-



permanently and totally disabled; \* \* \* all to the libelant's damage in the sum of fifteen thousand (\$15,000) dollars." It is not alleged in the libel that defendant or its servants refused or neglected to properly treat or care for libelant after the injury received by him. To this libel certain exceptions have been filed, which make it necessary to consider whether the facts alleged are such as to render the defendant liable in this action.

The defendant is a corporation, and therefore can only act through its agents or servants, so that the negligence with which it is charged must necessarily have been the personal negligence of some one employed by it; and for the purpose of passing upon the exceptions it will be assumed that this person was the master to whom the navigation of the ship had been intrusted for the voyage mentioned in the libel. It is distinctly alleged that the steamer was provided with necessary hatch covers, and the act of negligence charged is that upon the occasion referred to in the libel the steamer was carelessly operated with the afterhatch uncovered. The question, then, is whether the defendant as owner is liable for this act of negligence upon the part of the master of the steamer. It will be readily conceded that no cause of action is stated against the defendant unless the libel shows upon its face that the defendant failed to perform some positive duty which it owed to the libelant as its employee. The duties which the owner of a ship owes to the seamen employed in its service are to see that the ship is seaworthy, properly manned, and equipped with all necessary appliances for the seamen's safety and for the use of the ship; to provide them with sufficient food and with medical attendance and care in case of sickness; to use due care in the selection of the master and other officers of the ship; and he may also, under the general principles which govern the relations of master and servant, owe certain special duties to minors and seamen known to be inexperienced. Is there anything in the libel which can be construed as a charge that the defendant failed in the performance of any one of these duties? I think not. The negligence complained of, namely, leaving uncovered the hatchway into which the libelant fell, was that of the master or other officer whose duty it was to see that it was properly closed with the cover provided for that purpose by the defendant. Assuming this to have been the fault of the master, it was the negligence of a fellow-servant of the libelant, for which the defendant, as owner of the steamer, is not liable to respond in damages. While it is true the master of a ship is a servant of higher grade than that of a seaman, and represents the owner in respect to the personal duties and obligations which the latter owes to the seamen, still in all matters pertaining to the navigation of the ship the master and seamen are fellow-servants, engaged in one common employment, and each assumes the risk of the other's negligence in the discharge of the duties incident to such common employment. The exceptions will be sustained.

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SEAMEN—DAMAGES FOR PERSONAL INJURIES—LIABILITY OF VESSEL THEREFOR—*The Marion Chilcott et al.*, 95 *Federal Reporter*, page 688.—This was a libel in rem against the above-named ship, brought by one Franz Schwam, a seaman, to recover damages for personal injuries, and heard in the United States district court for the district of Washington, northern division.



The court rendered a decision in favor of the libelant on July 24 1899, and from the opinion of said court, delivered by District Judge Hanford, the following is quoted:

The libelant claims damages to the amount of \$25,000 for abuse and personal ill treatment alleged to have been suffered by him while serving as a seaman on the ship *Marion Chilcott*, on a voyage from Baltimore to Seattle. After careful consideration of the pleadings, evidence, and arguments, I am convinced that the libelant suffered corporal chastisement at the hands of the mate very frequently during the voyage, which was, except on the first occasion, unnecessary and unjustifiable. When discharged, after the termination of the voyage, the libelant was in such poor health that he was taken to the marine hospital with a permit issued to him by the captain, and he was certainly in a nervous and weakened condition in consequence of his sufferings during the voyage. There is, however, no evidence upon which to base a finding that his injuries are permanent. He has shown himself to be an untruthful witness, and I am convinced that he has grossly exaggerated, both as to the ill treatment and its effects. There is a decided preponderance of the evidence against the libelant in regard to a number of important facts, and convincing proof that the greater part of his suffering was caused otherwise than by ill treatment at the hands of the officers of the ship; and for the pain and distress now referred to, the ship, her owners, and officers are not in any degree responsible. An exorbitant demand increases the expense and burden of litigation, and a party responsible for it should share the consequences by having his recovery pared down. Having this principle in mind, I shall award only a comparatively small amount of damages in this case.

The sixteenth admiralty rule is a bar to a suit in rem by a seaman to recover damages for assaults committed by officers of a ship, but I hold that the vessel is liable in this case for the consequences of continued abusive treatment on the part of the first mate, which should have been prevented by the captain. It was the duty of the captain to maintain proper discipline on the ship and to protect members of the crew from abuse at the hands of his subordinate officers, and neglect to perform his duty in that regard renders the ship liable for the effect of such abuse.

I am not prepared to depart from the rule of limited liability for injuries caused by accidents laid down in the decision of this court in the case of *The Governor Ames*, 55 Fed., 327. But that rule is not applicable in a case where the negligence complained of amounts to a breach of duty on the part of the owner or master of a ship which such owner or master is obligated to perform personally, as, for instance, the duty to see that the ship is seaworthy at the time of leaving port, and that her equipments, appliances, and apparatus which must be handled and used by the crew in her navigation are sound and fit for use, and not by reason of decay or wear calculated to expose members of the crew to unnecessary danger, or the duty of the master while at sea to protect the crew from violence and brutal treatment in violation of the implied contract that such protection will be afforded. It is my opinion that the ship is liable in this case, and I award to the libelant as his damages the sum of \$100 and costs.

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SEAMEN—RELEASE OF CLAIM FOR WAGES WHILE UNDER CONSTRAINT—DAMAGES FOR ABUSIVE TREATMENT—*The Fred E. Sander*, 95 *Federal Reporter*, page 829.—This was a suit in rem against the



schooner Fred E. Sander to recover wages earned as cook on a voyage from Seattle to St. Michael, and for damages for abusive treatment and neglect while the libelant was in a disabled and suffering condition at St. Michael.

The final hearing of the case was had in the United States district court for the district of Washington, northern division, and the decision of said court, in favor of the libelant, was rendered June 27, 1899, by District Judge Hanford, and his opinion, showing the facts in the case, reads as follows:

The story of this case, as I have gathered it from the testimony, is as follows: The libelant signed shipping articles at the port of Seattle on the 3d day of June, 1897, to serve as cook on board the Fred E. Sander on a voyage to St. Michael and return to Puget Sound, at the agreed rate of wages of \$45 per month. The libelant is quite an old man, and past the age for doing the ordinary work of an able seaman; but he is a competent cook, and performed his duties in a satisfactory manner on the passage from Seattle to St. Michael. Besides the complement of officers and men, there were on board the vessel on said voyage the captain's wife and an infant child and a nursemaid. It was the custom on the vessel to serve two breakfasts in the cabin, the first for the mates and the nursemaid, and the second for the captain and his wife. One morning, while the vessel was at St. Michael, the nursemaid was late in coming to breakfast, and the mates took advantage of her tardiness by eating all of the breakfast served for the three persons. The cabin boy informed the libelant of this, and that the maid wished to have a second breakfast prepared for her, to which the libelant replied that a breakfast especially for her could not be served, and that she would have to take her breakfast with the captain and his wife; and her breakfast was served in the manner he proposed, but the maid informed the captain that the libelant had refused to cook meals for her in the ship. Acting upon this information, the captain went forward and spoke to the libelant in an irritable manner, and the libelant answered him insolently; no doubt feeling exasperated by the captain's manner toward him after he had actually prepared two breakfasts for the maid. The captain attempted to punish his insolence by assaulting him, and a scuffle ensued in the galley. The libelant, as soon as he could get free from the captain's grasp, sprang out of the galley and picked up an ax, with which he aimed a blow at the captain, viciously inflicting a severe wound upon the captain's hand, and then attempted to escape from the consequences by going aloft in the rigging. The captain ordered the mates to put him in irons, and then went into the cabin. The mates brought the libelant to the deck, put handcuffs on him, and, handling him very roughly, conducted him to the afterpart of the vessel, where they threw him down the lazarette hatch; and by the captain's orders he was chained to a stanchion, and imprisoned in the lazarette for about ten days. He was, however, allowed certain liberty for exercise and necessary purposes. He was thrown into the lazarette with unnecessary force, and probably received several kicks or blows, whereby one of his ribs was broken, and he sustained other injuries more or less severe. While in the lazarette he was cramped for want of sufficient room, and suffered great discomfort, and no attention whatever was paid to the treatment of his wounds. On the 20th day of July, 1897, with his own consent, he was released from imprisonment and discharged from the service of the ship, and engaged as a mariner on board of another



American vessel then at St. Michael; but being weak and sore, and too old to perform the duties of a seaman with safety to himself, he did not go to sea, but secured a position as cook on board a river steamer running on the Yukon River. He was then able to superintend the cooking department in said steamboat, but was unable to do hard work for several weeks. On the steamboat he was for the first time put in bandages, and received proper treatment for his broken rib. No wages were paid to him for his services on board the Fred E. Sander, and at the time of his release from imprisonment he signed a paper relinquishing his claim for wages.

I hold that the libelant's written agreement to forfeit his wages is not binding upon him, for the reason that, considering his situation at the time, a presumption arises that he was constrained to sign the agreement or suffer further imprisonment, which he had every reason to believe would continue until the return of the vessel to Puget Sound. Courts of admiralty pay no respect to agreements of seamen to forfeit their wages, extorted from them at sea or in places where the power of the ship's master is supreme.

The libelant can not recover in this suit any damages for assault made upon him and injuries inflicted by the violence of the captain and his subordinate officers, because admiralty rule 16 does not permit a suit in rem to recover damages for such injuries; but, after the injuries had been inflicted, he was entitled to humane treatment and to be cured at the expense of the ship. For his additional unnecessary suffering, and the neglect of the captain to see that he had such proper treatment for the cure of his injuries as, under the circumstances, might have been afforded, he is entitled to some compensation. If he were without fault in the matter, his claim for substantial damages would be entirely just, and I would unhesitatingly award to him more liberal recompense than the amount which I have fixed as proper under all the circumstances which I have detailed. The libelant is himself blameworthy, and to a very considerable extent responsible for his own injuries, by reason of his unjustifiable conduct: First, in offering insolence to the captain when he was spoken to concerning his duties and, second, in retaliating for an assault which had been made upon him by making a murderous assault upon the captain with a deadly weapon. The captain's ill usage was sufficient to provoke him to anger but the circumstances were not such as to justify him in resorting to the use of a dangerous weapon in self-defense, because he had no reason to believe that he was in imminent danger of suffering great bodily harm, and he had not retreated to the wall. Considering all the circumstances shown by the evidence, it is my opinion that justice will be done by awarding to the libelant wages at the rate of \$45 per month for a period of three months, and damages for neglect to treat him properly after his injuries, in the sum of \$200 and costs. A decree will be entered in accordance with this opinion.

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STRIKES — CONSPIRACY — INJUNCTION — CONTEMPT OF COURT — *United States v. Sweeney, Same v. Tallemene et al., Same v. Hefley, Same v. Barrick et al., Same v. Lingo et al., Same v. Bunch et al., 95 Federal Reporter, page 434.*—On the 22d day of April, 1899, the Kansas and Texas Coal Company filed its bill in equity against one William Denny and others in the United States circuit court for the western district of Arkansas, Fort Smith division, and asked for the issuance of an



injunction. The bill alleged the owning of property in Arkansas by the above-named company, the mining and selling of coal therein, and the existence of an organization known as the United Mine Workers of America; that the officers of the local organization presented to the company a "scale" making certain provisions as to the weighing of coal, payment and rates of wages, etc.; that they required the officials of the company to agree to and sign said scale, and that said officials refused so to do; that thereupon most of the miners employed by said company struck and did not return to their work; that those who remained at work were threatened with violence by the strikers, intimidated, coerced, and abused, and were soon obliged to quit work; that the company had to operate its mines in order to meet its contracts and not suffer great loss and damage; that it could not find sufficient miners in Arkansas to do its work on account of the threats, influence, and persuasion employed by the strikers; that it proposed to employ a large number of miners from abroad, but believed, from information obtained, that unless the court took action to prevent it, said miners would be met by the strikers and treated with violence, and that the company's property would be destroyed, etc. A temporary restraining order was issued and service had upon the defendants. None of them entered an appearance and on the 6th day of June a decree pro confesso was had, and afterwards, on the 7th day of July, 1899, a final decree was rendered and the injunction made perpetual. Said injunction read as follows:

Whereas in the above-entitled cause now pending in the United States court for the western district of Arkansas, Fort Smith division thereof, upon application duly made to the said court on the 22d day of April, 1899, it was ordered that a preliminary writ of injunction issue herein as prayed for in the bill of complaint herein filed, which said order, among other things, provided as follows: That you, and each of you, and all other parties, be, and are hereby, enjoined and restrained from doing any and all of the following acts and deeds, to wit: First. From in any way or manner interfering with, hindering, obstructing, or stopping any of the business of the Kansas and Texas Coal Company, in, near, or about the town of Huntington, in the county of Sebastian and State of Arkansas, in the operation of its coal mines, or any other part of its business, in said town of Huntington or elsewhere. Second. From entering upon the grounds and premises of the plaintiff, or congregating thereon or thereabouts, for the purpose of interfering with, hindering, or obstructing the plaintiff in its business in any form or manner. Third. From compelling, inducing, or attempting to compel or induce, by threats, intimidation, unlawful persuasion, force, or violence, any of the employees of the Kansas and Texas Coal Company to refuse or fail to perform their duties as such employees. Fourth. From compelling or inducing, or attempting to compel or induce, by threats, intimidation, force, unlawful persuasion, or violence, any of the employees of the Kansas and Texas Coal Company to leave the service of the said company, and from preventing, or attempting to prevent, any person or persons, by intimidation, threats, force, unlawful persuasion, or violence, from entering the service of the Kansas and Texas Coal Company. Fifth. From doing any act whatever in furtherance of



any conspiracy or combination to restrain or to hinder the Kansas and Texas Coal Company, its officers or employees, in the free and unhindered control of the business of the Kansas and Texas Coal Company. Sixth. From ordering and directing, aiding, assisting, abetting, encouraging, in any manner whatever, any person or persons to commit any of the acts aforesaid. Seventh. From congregating at or near or on the premises or property of the Kansas and Texas Coal Company, in, about, or near the town of Huntington, Ark., or elsewhere, for the purpose of intimidating its employees or coercing said employees or preventing said employees from rendering services to the Kansas and Texas Coal Company. Eighth. From inducing or coercing, threats, intimidation, force, or violence, any of the said employees to leave the employment of the Kansas and Texas Coal Company, or from in any manner interfering with said Kansas and Texas Coal Company in carrying on its business in its usual and ordinary way, or from in any manner interfering with or molesting any person or persons who may be employed or seek employment by and of the Kansas and Texas Coal Company in the operation of its coal mines at and near said town of Huntington or elsewhere. Ninth. From trespassing or going upon the grounds, premises, or property of the Kansas and Texas Coal Company, which are more particularly described hereinafter, and from gathering in and about any of said property in large numbers, or in company with each other or other persons who are not herein named for any of the purposes hereinbefore prohibited. The property sought to be protected herein consists, in part, as follows: Mine No. 51, about  $1\frac{1}{2}$  miles north of west of Huntington; mine No. 53, about  $1\frac{1}{4}$  miles from Huntington, in direction as aforesaid; mine No. 63, situated just outside of the town limits of said town; mine No. 65, 2 miles west of Huntington, on 'Frisco road, and mine No. 45, now abandoned, but with machinery still about it; and the top houses, tipples, engine house, boiler houses, fan houses, air-shafts, engines, boiler, tracks, pump, ventilating fans, stables, mules, coal cars, mine timbers, blacksmith shops, powder magazines, company store and warehouses, and stock of merchandise, tenement houses, and all other real and personal and mixed property, whether herein named and designated or here omitted, belonging to said mines or belonging to or in the possession or control of the Kansas and Texas Coal Company; also, strip pit leases, and various and divers other kinds and classes of property too numerous to mention or specifically describe. And you, and each of you, are hereby commanded that you do desist and refrain from doing or causing to be done, or aiding or abetting in doing or causing to be done, any of the acts or things herein recited, or interfering or injuring, or attempting to interfere with or injure, any of the property here mentioned, or any other property of the Kansas and Texas Coal Company, whether herein mentioned specifically or omitted. And you are hereby further notified that the matters and things required of the plaintiff by the court have been complied with, and that the marshal is instructed to serve this preliminary injunction upon you, and each of you, and any and all other parties that he receives information about to do, or contemplate doing, any of the matters and things here forbidden; and he is further ordered to give publicity to this injunction in and about the town of Huntington, and to warn the parties here mentioned, and all others, of the purport of this order and the penalties attending a violation thereof; the form of this injunction having been approved by the court.

Witness the Honorable John H. Rogers, judge of said court, on the 22d day of April, 1899, and the seal of said court.



Subsequently certain acts were committed by the strikers which appeared to be violations of the injunction, and upon affidavits charging the same being filed in the court certain parties were brought into court and heard as to why they should not be held guilty of contempt of court and punished accordingly. The cases against the different individuals were consolidated, and the decision of the court was rendered by District Judge Rogers July 22, 1899, and certain of the defendants were adjudged guilty of contempt and were punished by the imposing of terms of imprisonment of various lengths.

In the course of his opinion Judge Rogers, after speaking of the issuance of the injunction, used the following language:

Subsequently, and while this restraining order was in full force, no steps having been taken to vacate or modify it and no disturbances having occurred, on the night of the 15th of May the strikers made a simultaneous attack at three different points at Huntington, where plaintiff company's mines are situated. One attack was upon a negro boarding house, not the property of the plaintiff, but in which were sleeping 12 or 15 negro miners in the employ of the plaintiff company, the strikers using dynamite, and blowing a hole through the porch, and blowing out one side of the house. At a considerable distance therefrom, about the same time, they fired numerous shots through the residence of a white man with whom some of plaintiff's white employees boarded. Fortunately no casualties occurred at either of these places. About the same time an assault was made with guns on the company guards at the shaft of the mine, some distance from the places where the other assaults were made. One of the guards was wounded through the shoulder and head. Thereupon the guards returned the fire, and one of the strikers was killed. It is not known who the individuals were who engaged in these assaults. The man killed was a striker, and his comrades carried him away, leaving, however, at the spot where he was shot a large quantity of dynamite and two revolvers. A searching investigation by the State authorities of this effort at midnight assassination failed to disclose anyone who had any knowledge of it. From the circumstances, however, it must be assumed that the persons engaged in it were strikers. The reasonable conclusion is that they intended to drive away or kill the guards and then dynamite the mine and machinery used in its operation. It is proper to add that about half the men assaulted were not imported into this State (if that made any difference), but were in the employ of the company when the strike was called, and who, after the injunction was granted, had returned to work. The details of this lawless and felonious conduct were the next day, May 16, communicated, both by wire and letter, by the presiding judge of this court to the Attorney-General of the United States, and the request made for 40 special deputy marshals to enforce the injunctions granted by this court in that and other cases. An answer came promptly to swear in 40 special deputies, which was done, and about 15 of these deputies were located at Huntington and the others distributed at other mines where injunctions were in force. Before they were sent out, this court, in open court, carefully advised them of their duties and cautioned them against any violations of State laws or of being inveigled into disputes and controversies with the strikers, and directed them to remain as close as possible to the company property and to protect it and its employees from any interference by the strikers. This condition of things obtained, the com-



pany steadily filling its mines with miners from other States, both white and colored—principally colored—until July 3, when the town marshal of Huntington, in the effort, without a warrant, to arrest a colored miner in the employ of the coal company, who was accused of having on his person a concealed weapon in violation of the statutes of the State, was resisted, and an altercation occurred in which the marshal came out second best, and the miner and his companion, who assisted him, escaped and went to the mine, then guarded by deputy United States marshals. An affidavit was immediately filed in this court against the town marshal (himself a white striker) and two colored strikers, his posse, for contempt of this court in violating the injunction by interfering with the employees of said plaintiff company and a writ of habeas corpus was sued out for the negroes who had resisted arrest, but who in the meantime had been surrendered to the town authorities of Huntington for trial. Upon an investigation by this court it was of opinion that the negro miner was, at the time the marshal sought to make his arrest, carrying a concealed weapon, and hence the court remanded him and his confederate to the State authorities to answer for his crime, although he stoutly denied he had any weapon when the town marshal sought to arrest him. It also discharged the town marshal and his posse, with some misgivings as to its duty, since the evidence strongly impressed the court of gross misconduct upon the part of the marshal and tended to show that in making the arrest he sought to oppress the accused because he was a company employee. On the following day (July 4) the miners held a meeting and adjourned to meet at 2 o'clock p. m. on July 5. On July 5, two days before the decree pro confesso was made final, at noon, the miners at adjoining mines (some of them having resumed work) laid off. Many did not go to work at all on July 5. Early in that morning they and the strikers began to assemble at Huntington, and by 2 p. m. a large body of miners from Huntington, Jenny Lind, Prairie Creek, Bonanza, and Greenwood, variously estimated at from 300 to 800 men (a majority armed with shotguns, Winchester rifles, and pistols) assembled in the town of Huntington. During the day of July 5 the superintendent of the mines heard, in various ways, that the mine was to be assaulted at 2 o'clock p. m. on the 5th and that the miners killed or driven away. The same information came to him directly from the assembled strikers on the forenoon of July 5. At noon he, out of abundant caution and having due regard for his men, called the men out, frankly stated to them what he had heard, advised them of the assemblage of many armed men up in the town, informed them that if they chose to stay they could do so, and that he would give them all the protection in his power; that he intended to stay himself, but if they chose to go they were at liberty to do so. The negroes nearly all left and started to town, to their homes and families. The deputy United States marshals and white miners whom the superintendent also apprised of the situation, were offered the same opportunities, but stayed and awaited the attack. In the meantime, before the colored miners had left the mine to go to their homes, the strikers had gotten two of their number who were not at work on that day, and, having frightened them, sent them to their comrades at the mine to tell them to come out or they would be killed that evening. These two men met many of the miners on their way home, advised them of the situation, and urged them to go to the meeting of the strikers. They started, and when met by the armed strikers were escorted to the meeting under guard, and when there



they were corralled and kept under guard until 8 or 9 o'clock at night. Such of them as did not go to the meeting were arrested wherever found and taken to the meeting, and, with their fellow-miners, guarded. In the meantime, after nearly every colored man in the employ of the company had been arrested and put under guard, a squad of armed strikers went to the homes of the colored men, where their wives and children remained in terror, and searched their houses, turning up beds and going through trunks and boxes, and taking firearms of all kinds, not even sparing the homes of those whose families were sick and confined to their beds. While under guard the colored men were harangued by violent agitators, urging they be lynched, killed, or driven out of the State, and the like. About 7 or 8 o'clock, at the instance of the mayor of Huntington, who was absent from the city on that day, but returned late in the afternoon, the colored men were released and went to their homes.

It is clear from the evidence that the meeting of July 5 was called on July 4; that the avowed purpose was to attack mine No. 53 of the coal company, then protected by the injunction of this court, and guarded by deputy marshals appointed by the express authority of the Attorney-General for the purpose of enforcing that injunction, and protecting the company's property and employees from interference of any kind by the strikers. The purpose of this meeting, if carried out, involved a wanton and felonious assault upon the officers of this court while in the discharge of their duty. It involved a felonious attack upon the peaceful miners working at that mine. It involved the destruction of the company's property and injury to persons covered by the injunction. That meeting was assembled partly on the property of the company, and guards and pickets stationed at various commanding and strategic points on the company property, and the colored men, in large numbers, were corralled and guarded in the machine shop yard of the company. The meeting was riotous and felonious. The meeting itself, there, was a clear, positive, and aggressive violation of the second, seventh, and ninth paragraphs of the injunction, which forbid any such meeting held at or near the company property. The avowed purpose of the meeting, while it was being held, made by numbers of its armed members, as testified to by various witnesses, and admitted under oath by one of these defendants, was to assault the mine of plaintiff company and kill or drive out its employees. In the opinion of the court one of two things is true: Either they intended to carry out their threat to attack, kill, or drive out the company's employees, or they intended, by a bold, audacious show of armed force, to "peaceably persuade," as they would have us believe now, but, in truth, to bulldoze and intimidate the company's employees in the mine until, for very fear, they would leave the mine and go where they could get to them, and, having obtained possession of them, search their houses, disarm them, and then to threaten, abuse, and harangue them into a state of fear; thereby forcing them to leave the employ of the company, and either join the strikers or leave the State. Such a meeting for either purpose at that place involved a clear, undisguised, and intentional violation of almost every paragraph of the injunction; and the court is of opinion further, that but for the foresight and prudence of the superintendent of the mine in calling the men out and giving them an opportunity to leave the mine, thereby enabling the striking miners to arrest a large majority of the men, in all probability a collision would have occurred on the evening of July 5. This meeting did not originate in race hatred or because the men at work were either of the criminal



classes or diseased, but because they had taken the places vacated by the strikers. It is true that many of the company employees arrested and falsely imprisoned by this mob, now, doubtless by way of "benevolent assimilation," styled by them a "citizens' meeting," had been imported from other States since the strike began, and they were colored men, but it is due the truth to say that those of them who appeared as witnesses were of a superior class, far above the average colored laborer in the South, and on the witness stand they deported themselves in such a way as to impress the court that they were trying to tell the truth. I have carefully read over the testimony since the trial, and I think no one can read it without reaching the conclusion that it is worthy of credence, although, from a sense of fear, some of them had done and said things at and before the meeting of July 5 somewhat out of harmony with their testimony (which was to be expected), and although, from excitement at the time, they may not have remembered all the circumstances as they occurred. The former residence of each colored witness, and the time he had been in the State was ascertained. They came from Iowa, Illinois, Missouri, Kentucky, and Tennessee, and were miners, many of them having families; and, of the colored men in the mine a considerable per cent were born and raised in this county, and had been mining at that very place for years. Others, born in other States, had been mining there for several years. But there was also a considerable per cent of white men at work. The testimony wholly failed to show any contagious disease among them, or that they had ever belonged to the criminal classes anywhere, or had participated in any strike, or ever been present where any strike was on. On the other hand, among the strikers were home-born negroes and negroes from other States. One of the former figured prominently at public meetings of the strikers, making incendiary speeches and stirring up strife. Others were less prominent in their meetings, but took active parts as agitators, so that there was no question of color line or of criminal classes or of contagious diseases involved. Of these ten defendants, it is painfully true, but it should be stated, most of them are American born, and all, I believe, citizens of the United States. Most of them came from other States, and some are Arkansans.

An effort was made to show that the meeting of July 5 was composed largely of citizens from the surrounding country—farmers of this county. In the opinion of the court, the testimony shows this to be absolutely without foundation. No witness has been able to name a single bona fide farmer, armed, at that meeting. Mr. Crump, a farmer living in that neighborhood, testified that he thought he knew almost every old settler in that district of the county; that he had been deputy sheriff for several years, and had visited or knew almost every farmer in the county; that he passed by the meeting, was himself arrested by the mob, and guarded on a business errand by them, and that he did not see a single farmer armed that day. The people of this county have not resorted to mob violence but once in twenty-five years, and they do not share any part of the responsibility for the mob of July 5, except as it may attach to the maladministration of the municipal government of Huntington, partly composed of, and altogether dominated by, the strikers, and the failure to enforce State laws at that place. It is due these defendants that they be made to know that they were guilty of false imprisonment, under the State law, every time they detained by force, arrested, or guarded a man on that day; that they are subject to indictment for robbery or larceny for each gun they took from the negro miners by force or stealth; that



they are subject to indictment for criminal conspiracy at the common law; that they are subject to prosecution for assault and battery, for disturbing the peace, for riot, and for other misdemeanors under State statutes; and that a number of them are subject to prosecution for perjury in this court. I consider it my duty, as a judge and as a citizen, that I should furnish the State circuit judge with a copy of the stenographic report of the testimony in this case, that he may, in the exercise of his high office, if he thinks it his duty, call the special attention of the grand jury to the violations of law at Huntington on July 5. It must not be forgotten that the punishment of these defendants for violating the injunction of this court does not relieve them from answering to the State for the infraction of its laws.

It was upon the proceedings I have summarized that affidavits were filed in this cause against the defendants on trial, charging, in substance, that each of them had violated the injunction of this court on July 5, 1899, in that they were parties to a conspiracy, and participated in the riotous proceedings detailed, and for the object and purpose of removing, forcibly if necessary, and by unlawful persuasion, intimidation, and coercion, if possible, the plaintiff's employees—ostensibly because said employees were negroes, but really because the company was operating its mines without the aid of the strikers. These affidavits also state that said conspiracy was carried out in many ways, and specifically state several acts attributed to the several defendants.

The defendants filed separate answers, in which they admit the meeting without denying its character, but saying they do not know what the object and purpose of the meeting was, and that, if its purpose was as stated, they did not in any way participate therein. They deny violating the injunction, and any knowledge that it was violated. They deny the specific acts alleged against them. These answers are duly verified under the oath of the several defendants. That these answers are not only evasive and false, and they knew they were false, is abundantly established, and in some cases, to all intents and purposes, admitted by themselves to be false, when they came upon the stand to testify as witnesses. Take T. Lingo as an example: His answer was the same as the others, except that he denied knowing the object and purpose of the meeting, and alleged that if the purpose was as stated in the affidavit against him, he did not lend his aid or participate therein, and did not violate the injunction, and did not know that it had been violated, and states affirmatively that he met a crowd, and was by them forced and compelled to take a gun and go to the train, and when Grant and Tom Gentry, two of the company's colored employees, were arrested by the strikers, he was compelled to go with them to the meeting against his will, and did not participate in the acts and doings of the crowd. The proof shows he not only arrested and guarded persons, and disarmed one colored man, and arrested him and his wife on the way to the train to leave town, but that he had a gun all day, and participated in the arrest of Grant and Tom Gentry at the train. Nobody acted any worse than he, except those who searched, and by force took from the families of the company employees occupying houses owned by the company, their firearms. Take Sweeney: His answer was about as stated above, and yet the proof shows overwhelmingly that he was the controlling spirit of the whole riotous proceeding. He had been president of the local union. He was at the meeting early with book and pencil, evidently forming committees, and directing their actions. To him persons arrested were brought to report, and were held or released, as he directed. He was armed at times, and



at other times unarmed. Witnesses testify, and are not contradicted, that he directed searches to be made, and guns taken from the colored miners. He was, as the witnesses say, "boss;" and yet this man, young and intelligent, filed and swore to an answer the substance of which I have stated. It is but just to say that, with becoming discretion, after hearing the evidence, he did not venture to testify in his own defense. The testimony of these defendants without exception shows an effort to make some plausible, specious, but, as it turns out, absolutely incredible excuse for their presence, with arms, at the meeting, and to explain away inculpatory conduct that will not explain. Summed up, it presents a sickening, disgusting, palpably false, and utterly insufficient defense, at once both shameless and shameful. If this court should accept their testimony as true, it would at once forfeit the respect of all honest men, and become the object of ridicule and contempt by these defendants, and would rightly deserve to be regarded by them as its injunction has been treated by them, with contempt, contumely, and defiance.

There is not a single question of law involved in all these proceedings not settled by authority as binding on this court as if written into the statutes of the United States. That the court has jurisdiction of the original bill for injunction there can be no doubt. (*Wire Co. v. Murray*, 80 Fed., 811; *Mackall v. Ratchford*, 82 Fed., 41; *U. S. v. Debs*, 64 Fed., 724; *In re Debs*, 158 U. S., 573, 15 Sup. Ct., 900.) There is no settled practice in contempt proceedings. The proceedings in this case conform to the practice elsewhere. But if irregular, no question has been raised, no complaint urged, that the defendants did not have ample notice of the charge against them. For practice in contempt proceedings, see *Fischer v. Hayes*, 6 Fed., 76; *U. S. v. Memphis & L. R. R. Co.*, id., 237; *U. S. v. Wayne*, 28 Fed. Cas. 504. That parties can not conclusively purge themselves of contempt by filing answers denying acts alleged against them, see *U. S. v. Debs*, 64 Fed., 725, and the cases there cited; *In re Debs*, 158 U. S., 594, 15 Sup. Ct., 900. That it was the duty of the court, on the facts alleged in the bill, to grant the injunction, is sustained by authority. (*Wire Co. v. Murray*, 80 Fed., 811; *Mackall v. Ratchford*, 82 Fed., 41.) That the court has the power, and that it is its duty, to punish a person violating its injunction, is a principle universally recognized, and as old as equity jurisprudence. (*Wire Co. v. Murray*, 80 Fed., 811; *In re Debs*, 158 U. S., 595, 15 Sup. Ct., 900.) "To render a party amenable to an injunction, it is not necessary that he should have been a party to the suit in which the injunction was issued, nor to have been actually served with a copy of it, so long as he appears to have had actual notice." (*Ex parte Lennon*, 166 U. S., 549, 17 Sup. Ct., 658.) The defendants were shown to have had actual notice, and none of them claimed a want of notice as a defense or testified he did not have it. To claim that the exercise of the power to protect by injunction property and persons engaged in lawful business enterprises in proper cases, and where the remedy at law is inadequate and the injury irreparable, is new, or that such proceeding is a modern invention of the Federal courts, is as stupid as it is untrue. (*Wire Co. v. Murray*, 80 Fed., 811.) In the last case cited Judge Sage reviews the history of injunctions in a case in principle precisely on all fours with this one, and shows by numerous citations that the remedy by injunction came to us from the courts of England, and had been widely followed in this country by the courts of the several States. That case is instructive as showing that the first case in a dispute of this character



occurred in England in 1868, and that there was ample authority for the injunction found in State decisions without citing a single Federal case. That the remedy by injunction has become more common in modern or recent times is doubtless true, and grows out of the ever-changing conditions and evolutions in business incident to modern civilization. That the courts adapt themselves to these changing conditions and afford relief, and preserve the personal and property rights of the individual citizen, is a tribute to the conservatism and wisdom of both bench and bar. There is nothing either strange, novel, or extraordinary about these proceedings. Suppose A, a citizen and resident of Missouri, should file his bill in this court against B and his codefendants, citizens and residents of Arkansas, alleging that he was the owner and seized in fee of a valuable tract of land, an addition to this city, covered by a heavy forest of great beauty and value; that he had employed hands and was opening up and grading streets and alleys preparatory to placing the same on the market; that B and his codefendants, who were insolvent and irresponsible, but who, for reasons satisfactory to themselves, whether good or bad, had conspired together, and in order to prevent the land being improved and put on the market assembled from day to day, with force and arms, and drove away A's employees, and were cutting, despoiling, and hauling away his forest; that he had applied to the peace officers and local authorities, and they refused to protect his property or to disperse the mob or to protect his employees. Could this court, with any conscience, refuse injunctive relief on the well-known grounds for equity jurisdiction, namely, inadequate remedy at law, irreparable mischief, and to avoid multiplicity of suits? To state the case is to answer it. Suppose the court granted the relief and restrained B and his coconspirators from further trespassing and interfering with A's land and employees; suppose B and his coconspirators, after service of the injunction, continued their trespasses on A's land and to drive off his employees, and when cited to show cause why they should not be punished for contempt should gravely answer, "Not guilty," and demand a jury. There you would have a court rendering a judgment and granting relief which it has no power to enforce, or the enforcement of which depends on the verdict of a jury. What is the difference in principle between that case and this? None whatever. Take another illustration: Suppose a wholesale house in this city should, for reasons satisfactory to its owners, pay off and discharge one of its employees, whereupon the others should all quit work and walk out. Thus far no rights are invaded. The merchant has discharged one of them, as he had the legal right to do, and the other employees quit, as they had the legal right to do. But suppose all the employees step up and say, "You must close up this house or restore this discharged employee and increase the wages of us all 20 per cent, and if you do not do it you can not open this house or sell these goods, and if you attempt to do it we will dynamite your house and kill you." What is the difference between that case and the one at bar? And will courts of equity grant no relief in cases of this kind, where the employees are insolvent and the injury to be inflicted irreparable? This is anarchy. If the striking miners have any such power as this it must needs be all other citizens have the same power. Let us see. Suppose the plaintiff company ultimately succeeds in filling its mines with nonunion miners until they outnumber the strikers, and are better armed, and are equally as stubborn in the exercise of their rights, and are supported by the



influence and sympathy of the local authorities. Suppose at the juncture they advise the local union of mine workers at Huntington that they shall not work in plaintiff's mine until they abandon the union or not work at all, although plaintiff company desires the services and seeks their employment? The exercise of such a power is no higher or greater than the strikers now strive to exercise. The assumption of such a power by a mere handful of men, as compared with the population of this great country, must needs proceed (if it exist at all) from a very high source. It invades the personal liberty of the citizen, sweeps away the guaranties of personal and proper rights which our fathers deemed so sacred that they incorporated them into the Federal and State constitutions. Such an assumption of power and right must needs challenge investigation. Where do the strikers acquire it? If they have acquired it, from whence does it come? Who confided it to them? What is this association that it should assume to exercise a power not confided to the States and in contravention of the Federal Constitution? Who shall point out the reasons why so great a power should be exercised exclusively by them? What peculiar qualities have they exhibited of superior intelligence, higher character, and greater sense of right and justice than other persons, which renders them peculiarly fitted for so grave a duty as the exercise of so great a power and the enjoyment of such exclusive rights? No such power as they assume to exercise resides anywhere in this country. In law all are equal, and they, like all others, are amenable to public law, and enjoy no legal rights which others do not possess; and the effort by any body of men to exercise any such power is a criminal conspiracy that should meet with no favor among honest men and good citizens in a free country. (*Thomas v. Railroad Co.*, 62 Fed., 817; *Pettibone v. U. S.*, 148 U. S., 197, 13 Sup. Ct., 542.)

It is said, by way of palliation, that great excitement prevailed at Huntington on July 5. There was no excitement there not created by the lawless conduct of these defendants and their confederates. They created the excitement, and then sought to make it a pretext for assembling a mob. It can not be learned too soon nor too thoroughly by these defendants and their confederates and sympathizers, and by other persons who do not know it now, "that under this Government of and by the people the means of redress of all wrongs are through the courts and at the ballot box, and that no wrong, real or fancied, carries with it the warrant to invite, as a means of redress, the cooperation of a mob, with its accompanying acts of violence." (*In re Debs*, 158 U. S. 599, 15 Sup. Ct., 912.)

The claim that persons who violate injunctions are entitled, under the Constitution, to a trial by jury, is denied by authority absolutely binding upon this court. In the case of *In re Debs*, 158 U. S., 599, 15 Sup. Ct., 910, the court, by Mr. Justice Brewer, all the judges concurring, said:

"Nor is there in this any invasion of the constitutional right of trial by jury. We fully agree with counsel that 'it matters not what form the attempt to deny constitutional right may take. It is vain and ineffectual, and must be so declared by the courts;' and we reaffirm the declaration made for the court by Mr. Justice Bradley, in *Boyd v. U. S.* 116 U. S., 616, 635, 6 Sup. Ct., 535, that 'it is the duty of courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments thereon. Their motto should be 'obsta principiis.'" But the power of a court to make an order carries with it the equal power to punish for a disobedience of that order, and the inquiry



as to the question of disobedience has been from time immemorial the special function of the court. And this is no technical rule. In order that a court may compel obedience to its orders, it must have the right to inquire whether there has been any disobedience thereof. To submit the question of disobedience to another tribunal, be it a jury or another court, would operate to deprive the proceeding of half of its efficiency. In the case of *Yates*, 4 Johns., 314, 369, Chancellor Kent, then chief justice of the supreme court of the State of New York, said: 'In the case of Earl of Shaftesbury, 2 State Tr., 615, 1 Mod., 144, who was imprisoned by the House of Lords for "high contempts committed against it," and brought into the king's bench, the court held that they had no authority to judge of the contempt, and remanded the prisoner. The court in that case seem to have laid down a principle from which they never have departed, and which is essential to the due administration of justice. This principle that every court, at least of the superior kind, in which great confidence is placed, must be the sole judge, in the last resort, of contempts arising therein, is more explicitly defined and more emphatically enforced in the two subsequent cases of *Reg. v. Paty* (2 Ld. Raym., 1105) and of *Crosby's Case* (3 Wils., 188).' And again, on page 371: 'Mr. Justice Blackstone pursued the same train of observation, and declared that all courts—by which he meant to include the two houses of Parliament and the courts at Westminster Hall—could have no control in matters of contempt; that the sole adjudication of contempts, and the punishments thereof, belonged exclusively, and without interference, to each respective court.' In *Watson v. Williams*, 36 Miss., 331, 341, it was said: 'The power to fine and imprison for contempt, from the earliest history of jurisprudence, has been regarded as a necessary incident and attribute of a court, without which it could no more exist than without a judge. It is a power inherent in all courts of record, and coexisting with them by the wise provisions of the common law. A court without the power effectually to protect itself against the assaults of the lawless, or to enforce its orders, judgments, or decrees against the reculant parties before it, would be a disgrace to the legislation and a stigma upon the age which invented it.' In *Cartwright's Case*, 114 Mass., 231, 238, we find this language: 'The summary power to commit and punish for contempts tending to obstruct or degrade the administration of justice is inherent in courts of chancery and other superior courts as essential to the execution of their powers and to the maintenance of their authority, and is part of the law of the land, within the meaning of Magna Charta and of the twelfth article of our Declaration of Rights.' See also *U. S. v. Hudson*, 7 Cranch, 32; *Anderson v. Dunn*, 6 Wheat., 204; *Ex parte Robinson*, 19 Wall., 505; *Mugler v. Kansas*, 123 U. S., 623, 672, 8 Sup. Ct., 273; *Ex parte Terry*, 128 U. S., 289, 9 Sup. Ct., 77; *Eilenbecker v. District Court*, 134 U. S., 31, 36, 10 Sup. Ct., 426, in which Mr. Justice Miller observed: 'If it has ever been understood that proceedings according to the common law for contempt of court have been subject to the right of trial by jury, we have been unable to find any instance of it. In the case of *Commission v. Brimson*, 154 U. S., 447, 488, 14 Sup. Ct., 1138, it was said: 'Surely, it can not be supposed that the question of contempt of the authority of a court of the United States committed by a disobedience of its orders is triable, of right, by a jury.' In brief, a court enforcing obedience to its orders by proceedings for contempt is not executing the criminal laws of the land, but only securing to suitors the rights which it has adjudged them entitled to."



That case was argued by as great lawyers as are in this country, and was decided by the greatest court in the world. Until it is overturned it must be held to be the law of the land. These defendants must be made to know that the very rights they strive to take away from others—the right to work; the right to make their own contracts; the right to follow any lawful occupation at any place in this country; the right to life, liberty, and the pursuit of happiness—are all preserved for them and all others by public law, administered always by courts organized for that purpose. These rights I have mentioned are inalienable rights belonging to every citizen of the United States, guaranteed by the Constitution. That same great court, speaking by the late Mr. Justice Field, in *Butchers' Union Slaughter House Co. v. Crescent City Live Stock Landing Co.*, 111 U. S., 757, 4 Sup. Ct., 660, said:

“Among these inalienable rights as proclaimed in that great document [the Declaration of Independence] is the right of men to pursue their happiness, by which is meant the right to pursue any lawful business or vocation, in any manner not inconsistent with the equal rights of others, which may increase their property or develop their faculties, so as to give them their highest enjoyment.”

And in *Allgeyer v. Louisiana*, 165 U. S., 589, 17 Sup. Ct., 431, the Supreme Court of the United States, through Mr. Justice Peckham, said:

“The liberty mentioned in that amendment [the fourteenth] means not only the right of the citizen to be free from the mere physical restraints of his person—as by incarceration—but the term is deemed to embrace the right of the citizen to be free in the enjoyment of all his faculties; to be free to use them in all lawful ways; to live and work where he will, and earn his livelihood by any lawful manner; to pursue any livelihood or avocation, and for that purpose to enter into all contracts that may be proper, necessary, and essential to his carrying out the purposes above mentioned.”

Much has been said about the men employed by the plaintiff company being ex-convicts from other States. It might be answered that but for the conduct of the defendants and their confederates the company might have been able to secure a superior class of men. But there is no evidence that they are ex-convicts. It is a mere subterfuge. But assume they are. They are still citizens of the United States, protected by its laws, and not denied the poor privilege of working for their daily bread; and because a man is an ex-convict is no reason why he should be mobbed. Moreover, it is no part of the duty of the United Mine Workers of America to determine what rights they possessed or what rights they may have lost. That belongs to the courts.

I have referred to the many aspects of this case, and at greater length than was necessary, because I desire that these defendants shall understand fully the situation in which they have placed themselves, and in order that they may in future abstain from a repetition thereof.

There is one other proposition which I desire to notice, namely, that where a party of men combine with the intent to do an unlawful thing and in the prosecution of the unlawful intent one of the party goes a step beyond the balance of the party and does acts which the balance do not themselves perform, all are responsible for what the one does. In other words, in the pursuit by various parties of an unlawful conspiracy each is responsible for the acts and doings of the other (U. S. v. Kane, 23 Fed., 751.) There can be no doubt, in view of the testimony, that the meeting of July 5 was preconcerted and held for



a definite and fixed purpose. I have fully adverted to that. Nor is there any doubt that each one of these defendants attended that meeting in pursuance of the purpose for which it was called, and each participated in its acts and doings, one in one way and another in another, so that in law they are all equally culpable. To illustrate:

“Suppose three or four men form a purpose to commit burglary, and break into a house for the purpose of committing that burglary. That is all they intend to do. That is the unlawful act, and the single unlawful act, which they set out to accomplish. They get into the house. Somebody wakes up, and one of the party shoots and kills. Now, the three or four persons who went into that house never formed beforehand an intent to kill anybody. They simply went in there to commit burglary. But, combining to do that unlawful thing, in the prosecution of that burglary, and to make it successful, one of the party shoots and kills, and the law comes in and says: ‘All of you are guilty of murder. We do not discriminate between you. You broke into that house to commit burglary. In the prosecution of that burglarious entrance one of your party committed murder. All are guilty.’ Now, that is a reasonable rule, when you stop to think of it. It is not a mere harsh, arbitrary, technical rule, which the courts have laid down and the statutes have established; it is a rule intended to prevent combinations or conspiracies to do an unlawful thing; and where there are many together it is often difficult to distinguish the one who does any particular act.” (U. S. v. Kane, 23 Fed., 751, 752.)

There is one aspect of this case which, so far as I have discovered in a wide range of examination of cases, is peculiar to itself. No case has been found where strikers conspired and combined together and armed themselves with deadly weapons to openly and deliberately attack the officers of the United States in the discharge of their duties. Such was the avowed purpose here, as shown by their threats to attack mine No. 53, guarded by deputy marshals, and the searching of the Fort Smith train for marshals when it arrived at Huntington on the evening of July 5. This fact must not be overlooked in the punishment to be imposed. Mobs are becoming alarmingly frequent in some sections, usually where the courts fail to enforce expeditiously and firmly the law; and criminals accordingly go unwhipped of justice. Sometimes they assemble upon a very slight provocation, but it can not be truthfully said there was any predicate for the mob of July 5. It was simply organized to break, not to vindicate the law already broken, if it be permissible to use that term at all in connection with the doings of a mob. It will be fortunate if the wide publicity of this case shall awaken a sense of responsibility and duty among good citizens as to the necessity of the rigid enforcement of public law and the dangers to be apprehended if we cease to rely, even in moments of great excitement, upon the courts and other constituted authorities for the preservation of all our rights.



## LAWS OF VARIOUS STATES RELATING TO LABOR ENACTED SINCE JANUARY 1, 1896.

[The Second Special Report of the Department contains all laws of the various States and Territories and of the United States relating to labor in force January 1, 1896. Later enactments are reproduced in successive issues of the Bulletin from time to time as published.]

### ALABAMA.

#### GENERAL ACTS OF 1898-99.

ACT NO. 734.—*Exemption from garnishment, etc.—Wages.*

(Page 37.)

SECTION 1. Section 2038 of the Code of 1896 is hereby amended so as to read:

2038 (2512), (2823). Exemption of wages of employees. The wages, salaries, or other compensations of laborers, or employees, residents of this State, for personal services, to the amount of twenty-five dollars per month, shall also be exempt from levy under writs of garnishment or other process for the collection of such debts, and when the fact of such indebtedness is disclosed by the answer of the garnishee the levy shall be void and the same shall be dismissed by the court before whom filed unless the plaintiff in garnishment shall contest the answer of the garnishee, as now provided by the law in such cases.

Approved February 23, 1899.

ACT NO. 800.—*Taxation of goods, etc., kept in truck or company stores.*

(Page 48.)

SECTION 1. Subdivision four of section 3911 of the Code of Alabama, with reference to the assessment of stocks of merchandise, is hereby amended so as to read as follows:

4. All stocks of goods, wares, merchandise, the assessment to be on the average amount on hand during the preceding year, but the amount so assessed shall in no case be less than the capital actually employed in the business, and this shall include all goods, wares, and merchandise, kept on plantations, or elsewhere, or by railroad companies or manufacturing companies, or other associations, companies, or persons, for sale or to be dealt out to laborers or employees for profit, or on account of their wages, and shall include all goods, wares, and merchandise offered for sale by any person commencing business subsequent to the first day of October of the current year, but in such case the tax shall be apportioned according to the date at which the business shall be commenced, so that if commenced after the 1st day of January, the tax shall be three-fourths of the tax for the whole year; if commenced after the 1st day of April, the tax shall be one-half of the tax for the whole year: *Provided*, That the assessment herein provided shall not include products raised on the farms, in the hands of the original producers. \* \* \*

Approved February 23, 1899.

ACT NO. 917.—*Coal mine regulations.*

(Page 86.)

SECTION 1. The chief mine inspector shall, upon application by the owner or operator of mines in which not more than twenty men are employed, grant permission for such owner, operator, or some suitable person recommended by the operator, to act as foreman in such mines, and no examination shall be required of said foreman: *Provided*, That this act shall not apply to the counties of Bibb, Etowah, St. Clair, Jefferson, Walker, Marion, Tuscaloosa, Shelby, Cullman, and Madison.

SEC. 2. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Approved February 23, 1899.



ACT No. 766.—*Wages preferred in payments by receivers of corporations.*

(Page 100.)

SECTION 1. Whenever a receiver of a corporation created or organized under the laws of this State, and doing business in this State, other than insurance and banking corporations, shall be appointed, the wages of all classes of employees, operators, and laborers thereof shall be preferred to every other debt or claim against such corporation, and shall be paid by the receiver from the moneys of such corporation which shall first come into his hands.

SEC. 2. This act shall take effect and be in force on and after its passage.

Approved February 23, 1899.

ACT No. 817.—*Alabama Industrial School—Trades to be taught to male inmates.*

(Page 158.)

SECTION 1. There is hereby established under the care of this State a reformatory and industrial school under the name and style of the Alabama Industrial School. \* \* \*

SEC. 13. The officers of said school \* \* \* shall cause all children in said school to be instructed in such branches of useful knowledge as may be suited to their years and capacities. The boys shall be taught such useful trades as the board may direct, and they shall be taught according to the course of the public schools of the State.

Approved February 23, 1899.

## GEORGIA.

## ACTS OF 1898.

ACT No. 19.—*Assignment, etc., of claims to avoid effect of exemption laws as regards wages unlawful.*

(Page 90.)

SECTION 1. From and after the passage of this act, whoever assigns, or transfers, or sends out of this State, by himself or agents, any claim for debt against a resident of this State, for the purpose of having the same collected by proceedings in attachment or by garnishments in courts outside of this State, with intent to deprive a resident of this State of the right to have his wages exempt from garnishment as provided by section 4732 of the Civil Code of 1895 and acts amendatory thereof, where the creditor and debtor and person or corporation owing the money intended to be reached by such proceedings are within the jurisdiction of the courts of this State, thereby seeking to evade said law and defeat the public policy of this State, shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not less than ten dollars and not exceeding fifty dollars for each account or claim so unlawfully transferred, or assigned, or sent out of this State as aforesaid; and the person whose personal earnings are so attached or garnished shall have a right of action before any court of this State having jurisdiction, to recover the amount attached and any costs paid by him in such attachment proceedings, together with all damages which he or they may sustain thereby, particularly such damages as may result to such person or persons because of any loss of employment by them, or discharge or suspension from work because of any levy of such attachment or garnishment proceedings, either from the person so assigning, transferring, or sending such claim out of the State to be collected, as aforesaid, or the person to whom such claim may be assigned, transferred, or sent, as aforesaid, or both, at the option of the person bringing such suit. The money thus recovered shall not be subject to garnishment.

SEC. 2. The assignment, transfer, or sending of such claim to a person not a resident of this State, and the commencement of such proceedings in attachment outside of this State, shall be considered prima facie evidence of the violation of this section.

SEC. 3. All laws and parts of laws in conflict with this act are hereby repealed.

Approved December 7, 1898.

ACT No. 25.—*Wages due deceased employee to be paid to widow.*

(Page 91.)

SECTION 1. From and after the passage of this act it shall be lawful upon the death of any person employed by any railroad company, express, street railroads, steam-



boats, or navigation companies, compress companies, factories, machine shops, or other corporations or persons, who may have wages due him by said company or companies, factory, or machine shops, or other corporations or persons, for said company or companies to pay over to the widow or widows, minors or guardians of said employee or employees, whatever wages there may be due the deceased, to the amount due, not to exceed one hundred dollars, without any administration upon his estate for this purpose.

SEC. 2. All laws and parts of laws in conflict with this act are hereby repealed.

Approved December 6, 1898.

## MASSACHUSETTS.

### ACTS OF 1899.

#### CHAPTER 247.—*Payment of wages.*

SECTION 1. Section one of chapter four hundred and thirty-eight of the acts of the year eighteen hundred and ninety-five, as amended by chapter three hundred and thirty-four of the acts of the year eighteen hundred and ninety-six, as amended by chapter four hundred and eighty-one of the acts of the year eighteen hundred and ninety-eight, is hereby amended by adding after the word "business," in the seventh line, the following words: in any of the building trades; in quarries or mines; in public works; in the construction or repair of railroads or street railways, of roads, bridges, sewers, of gas, water, or electric-light works, pipes or lines—so as to read as follows:

SECTION 1. Sections fifty-one to fifty-four, inclusive, of chapter five hundred and eight of the acts of the year eighteen hundred and ninety-four, relative to the weekly payment of wages by corporations, shall apply to all contractors and to any person or partnership engaged in this Commonwealth in any manufacturing business; in any of the building trades; in quarries or mines; in public works; in the construction or repair of railroads or street railways, of roads, bridges, sewers, of gas, water, or electric-light works, pipes or lines. And the word "corporation," as used in said sections, shall include such contractors, persons, and partnerships.

SEC. 2. This act shall take effect upon its passage.

Approved April 10, 1899.

#### CHAPTER 299.—*Establishment of textile schools.*

SECTION 1. Whenever the mayor of any city in this Commonwealth files a certificate with the commissioner of corporations that there is in operation in such city four hundred and fifty thousand or more spindles, not less than seven nor more than twenty persons, citizens of this Commonwealth, may associate themselves by an agreement in writing for the purpose of establishing and maintaining a textile school in such city, for instruction in the theory and practical art of textile and kindred branches of industry, with authority to take, by gift or purchase, and hold personal and real estate, to the amount of three hundred thousand dollars. A copy of said agreement, with the signatures thereto, sworn to by any one of the subscribers, shall be submitted to the governor, and if he shall certify his approval of the associates as persons suitable for the purposes of their association and of this act, said associates shall for said purposes, after due organization by the adoption of by-laws and the election of officers, and after filing a certificate of such organization and the certificate of the approval of the governor with the secretary of the Commonwealth, be a corporation, with all the powers and privileges and subject to all the duties and obligations of corporations organized for educational purposes under chapter one hundred and fifteen of the Public Statutes. Such corporation shall be known as the trustees of the textile school of the place in which it is situated, and shall have power to fill all vacancies in its number, however occurring, except as otherwise provided in this act. There shall be only one school incorporated under the provisions of this act in any one city.

SEC. 2. Any city in which such a corporation is organized may appropriate and pay to it a sum of money not exceeding twenty-five thousand dollars, and upon the appropriation and payment of said sum or any part thereof by any such city, the mayor and superintendent of schools for the time being of such city shall become members of said corporation, and the mayor and superintendent of schools of such city shall thereafter be members of such corporation.

SEC. 3. Whenever any such city shall appropriate and pay to any such corporation any sum of money, or whenever the trustees or members of any such corporation shall pay into its treasury, for the establishment and maintenance of such school, any sum of money, there shall be appropriated and paid to said corporation from the treasury of the Commonwealth a sum equal to the total amount so appropriated and paid; but



In no case shall there be paid to any such corporation by the Commonwealth any sum exceeding twenty-five thousand dollars; and upon the appropriation and payment of any sum of money by the Commonwealth for the purposes of any such school the governor shall, with the advice and consent of the council, appoint two persons to be members and trustees of the corporation, for two and four years respectively, and thereafter such persons and their successors by like appointment shall be members of said corporation. The governor, with the advice and consent of the council, shall fill all vacancies occurring in the membership created by this section.

SEC. 4. This act shall take effect upon its passage.

Approved April 25, 1899.

#### CHAPTER 344.—*Hours of labor.*

SECTION 1. Eight hours shall constitute a day's work for all laborers, workmen, and mechanics now employed, or who may hereafter be employed, by or on behalf of any city or town in this Commonwealth.

SEC. 2. All acts and parts of acts inconsistent herewith are hereby repealed.

SEC. 3. This act shall not take effect in any city or town until accepted by a majority of the voters voting thereon at an annual election. Such vote shall be taken by ballot. When so accepted, this act shall take effect from the date of such acceptance.

Approved May 6, 1899.

#### CHAPTER 359.—*Trade-marks of trade unions, etc.*

SECTION 1. Section one of chapter four hundred and sixty-two of the acts of the year eighteen hundred and ninety-five is hereby amended by striking out the whole of said section and inserting in place thereof the following:

SECTION 1. Any person, firm, association, union, or corporation may adopt a label, trade-mark, stamp, or form of advertisement not previously owned or adopted by any other person, firm, association, union, or corporation, and may file such label, trade-mark, stamp, or form of advertisement for record by depositing two copies or facsimiles thereof in the office of the secretary of the Commonwealth, one of which copies or facsimiles shall be attached by the secretary of the Commonwealth to the certificate of record hereinafter referred to; and shall file therewith a certificate specifying the name or names of the person, firm, association, union, or corporation so filing such label, trade-mark, stamp, or form of advertisement, his or its residence, situation, or place of business, the kind of merchandise to which such label, trade-mark, stamp, or form of advertisement has been or is intended to be appropriated, and the length of time, if any, during which it has been in use. In case such label, trade-mark, stamp, or form of advertisement has not been and is not intended to be used in connection with merchandise, then the particular purpose or use for which it has been or is intended shall be stated in the certificate. Such certificate shall be accompanied by a written declaration, verified under oath by the person or by some member of the firm or officer of the association, union, or corporation by which it is filed, to the effect that the party so filing such label, trade-mark, stamp, or form of advertisement has a right to use the same, and that no other person, firm, association, union, or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the copies or facsimiles filed therewith are true and correct. The secretary of the Commonwealth shall issue to the person, firm, association, union, or corporation depositing such label, trade-mark, stamp, or form of advertisement a certificate of record, under the seal of the Commonwealth, and the secretary shall cause the certificate to be recorded in his office. Such certificate of record, or a certified copy of its record in the office of the secretary of the Commonwealth, shall in all suits and prosecutions under this act be sufficient proof of the adoption of such label, stamp, trade-mark, or form of advertisement and of the existence of the person, firm, association, union, or corporation named in the certificate. The fee for filing the certificate and declaration and issuing the certificate of record herein described shall be two dollars. No label, trade-mark, stamp, or form of advertisement shall be recorded which could reasonably be mistaken for a label, trade-mark, stamp, or form of advertisement already on record.

SEC. 2. Section two of said chapter four hundred and sixty-two is hereby amended by inserting after the word "trade-marks," in the third line, the word: stamps—so as to read as follows:

SECTION 2. The secretary of the Commonwealth is authorized to make rules and regulations, and prescribe forms for the filing of labels, trade-marks, stamps, and forms of advertisement under the provisions of this act.

SEC. 3. Section four of said chapter four hundred and sixty-two is hereby amended by striking out the whole of said section and inserting in place thereof the following:

SECTION 4. Every person who, without authority from the owner of a label, trade-



mark, stamp, or form of advertisement recorded as aforesaid, shall make, use, sell, offer for sale, or deal in, or have in his possession with intent to use, sell, offer for sale, or deal in any counterfeit or imitation of such label, trade-mark, stamp, or form of advertisement, knowing the same to be counterfeit or imitation, and every person who, without authority from such owner shall affix, impress, or use such label, trade-mark, stamp, or form of advertising upon any goods, shall be punished by a fine not exceeding two hundred dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment.

SEC. 4. Every person who shall, with intent to defraud any person or persons, knowingly and willfully cast, engrave, or manufacture, or have in his possession, or buy, sell, offer for sale, or deal in any die, plate, brand, mold, or engraving on wood, stone, metal, or any other substance, of any label, trade-mark, stamp, or form of advertisement recorded pursuant to the statutes of this Commonwealth, or any printing presses, types, or other tools, machines, or materials provided or prepared for making any counterfeit or imitation of such label, trade-mark, stamp, or form of advertisement, shall be punished by a fine not exceeding two hundred dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment.

SEC. 5. Any person who shall, with intent to defraud any persons, knowingly and willfully aid or abet in the violation of any provision of this act or of said chapter four hundred and sixty-two shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

SEC. 6. Section six of said chapter four hundred and sixty-two is hereby amended by inserting after the word "trade-mark," in the third line, the word: stamp; also by inserting in the last line, after the word "person," the word: firm, and also by striking out the words "or union," in the last line, and inserting in place thereof the words: union or corporation—so as to read as follows:

SECTION 6. In any suit or prosecution under the provisions of this act the defendant may show that he or it was the owner of such label, trade-mark, stamp, or form of advertisement prior to its being filed under the provisions of this act, and that it has been filed wrongfully or without right by some other person, firm, association, union, or corporation.

SEC. 7. Section 7 of said chapter four hundred and sixty-two is hereby amended by inserting in the fifth line before the word "advertisements" the words: forms of—so as to read as follows:

SECTION 7. Chapter four hundred and forty-three of the acts of the year eighteen hundred and ninety-three is hereby repealed. But this repeal shall not affect any legal proceedings, civil or criminal, instituted under or by virtue of said act; and all labels, trade-marks, stamps, and forms of advertisements already recorded according to the provisions of section four of said chapter, shall be deemed to have been duly recorded according to the provisions of this act.

SEC. 8. Section two of chapter two hundred and twelve of the Public Statutes as amended by section two of chapter three hundred and forty-two of the acts of the year eighteen hundred and eighty-five, and by chapter two hundred and eighty-four of the acts of the year eighteen hundred and ninety, is hereby further amended by adding thereto the following, namely:

Tenth. To search for counterfeits or imitations of any label, trade-mark, stamp, or form of advertisement recorded pursuant to the statutes of this Commonwealth; any goods upon which any such counterfeit or imitation has been impressed, affixed, or used; and any dies, plates, brands, molds, engravings, or printing presses, types, or other tools, machines, and materials prepared or provided for making any such counterfeit or imitation.

Approved May 11, 1899.

#### CHAPTER 368.—*Licensing, examination, etc., of stationary engineers and firemen.*

SECTION 1. It shall be unlawful for any person to have charge of or to operate a steam boiler or engine in this Commonwealth, except boilers and engines upon locomotives, motor road vehicles, boilers in private residences, boilers in apartment houses of less than five flats, boilers under the jurisdiction of the United States, boilers used for agricultural purposes exclusively, boilers of less than eight horsepower, and boilers used for heating purposes exclusively which are provided with a device, approved by the chief of the district police, limiting the pressure carried to fifteen pounds to the square inch, unless he holds a license, as hereinafter provided; and it shall be unlawful for any owner or user of a steam boiler or engine, other than those boilers or engines above excepted, to operate or cause to be operated a steam boiler or engine for a period of more than one week, unless the persons in charge and operating such boiler or engine are duly licensed.

SEC. 2. If any such steam engine or boiler is found at any time in charge of or operated by a person who is not a duly licensed engineer or fireman, and if after a



lapse of one week from such time the same is again found to be operated by a person or persons not duly licensed, it shall be deemed prima facie evidence of a violation of section one of this act.

SEC. 3. Any person desiring to act as engineer or fireman shall make application for a license so to act to the examiner of engineers for the city or town in which he resides or is employed, upon blanks to be furnished by the examiner. The application must show his experience during the preceding three years or time of service. The applicant shall be given a practical examination, and if found competent and trustworthy he shall receive within six days after the examination a license graded according to the merits of his examination irrespective of the grade of license for which he applies. The applicant shall have the privilege of having one person present during his examination, who shall take no part in the same, but who may take notes, if he so desires. No person shall be entitled to receive more than one examination within ninety days, except in the case of an appeal, as hereinafter provided. A license shall continue in force for three years, or until the same is revoked for incompetency or untrustworthiness; and a license shall remain revoked until a new license is granted. A license, unless revoked, shall at the end of said three years be renewed by an examiner of engineers upon application and without examination, if the application for renewal is made within six months of the expiration of the license. In case a new license of a different grade is issued the old license must be destroyed in the presence of the examiner. In case of the loss of a license by fire or other means a new license shall be issued in its place, without reexamination, upon satisfactory proof of such loss to an examiner.

SEC. 4. Licenses shall be granted according to the competency of the applicant, and shall be distributed in the following classes: Engineers' licenses: First class, unlimited in horsepower; second class, to have charge of and operate any boiler or boilers and any engine not exceeding one hundred and fifty horsepower; third class, to have charge of and operate any single boiler and any engine not exceeding fifty horsepower. Firemen's licenses: First, to operate any boiler or boilers; second, to have charge of and operate low-pressure heating boilers when the pressure carried is less than twenty-five pounds to the square inch. Any person desiring to have charge of or to operate any particular steam plant or type of plant may be examined as to his competency for such service and no other, and if found competent and trustworthy shall be granted a license for such service and no other; and the holder of such special license may have the same transferred to some other particular plant of the same type and horsepower without reexamination.

SEC. 5. The words "have charge," in this act, shall be construed to designate the person under whose supervision a boiler or engine is operated. The "person operating" shall be understood to mean any and all persons actually engaged in generating steam in any power boiler.

SEC. 6. The horsepower of any boiler shall be ascertained upon the basis of three horsepower for each square foot of grate surface for a power boiler, and on the basis of one and one-half horsepower for each square foot of grate surface, if the boiler is used for heating purposes exclusively. The engine power shall be reckoned upon a basis of a mean effective pressure of forty pounds per square inch of piston for a simple engine; fifty pounds for a condensing engine, and seventy pounds for a compound engine, reckoned upon area of high-pressure piston.

SEC. 7. All applications for licenses shall be accompanied by a fee of one dollar. All fees so paid shall be accounted for by the examiners to the chief of the district police, who shall return the same monthly to the treasurer of the Commonwealth.

SEC. 8. The boiler-inspection department of the district police shall act as examiners and enforce the provisions of this act.

SEC. 9. Any person dissatisfied with the action of an examiner in refusing or revoking a license may appeal from his decision, within one month from such decision, to the remaining examiners, who shall together act as a board of appeal, and a majority of whom shall have the power to hear the parties and pass upon the subjects of appeal. The party appealing may have the privilege of having one first-class engineer present during the hearing of his appeal, who shall take no part in the same. The decision of the majority of such remaining examiners so acting shall be final, if approved by the chief of the district police.

SEC. 10. An engineer's or fireman's license granted under this or previous acts shall be placed, so as to be easily read, in a conspicuous place in the engine room or boiler room of the plant operated by the holder of such license.

SEC. 11. Whoever violates any of the provisions of this act shall be punished by fine of not less than ten nor more than three hundred dollars, or by imprisonment not exceeding three months. Any trial justice may in his discretion take jurisdiction in complaints for violations of this act, and in such cases may impose a fine not exceeding fifty dollars.

SEC. 12. All acts and parts of acts inconsistent herewith are hereby repealed: *Provided, however,* That such repeal shall not invalidate any license granted under



the acts repealed, and licensees holding licenses so granted shall have the same powers given by section four of this act to licensees of a similar grade.

SEC. 13. This act shall take effect upon its passage.

Approved May 12, 1899.

#### CHAPTER 413.—*Employment of children.*

SECTION 1. No minor under eighteen years of age shall be employed in handling intoxicating liquors, or in handling packages containing intoxicating liquors, in any brewery or bottling establishment where intoxicating liquors are prepared for sale or offered for sale.

SEC. 2. Whoever violates the provisions of this act shall be punished by a fine of not less than fifty dollars, or by imprisonment for not less than three months, or by both such fine and imprisonment for each offense.

SEC. 3. Nothing in this act shall prohibit the employment of minors in drug stores.

SEC. 4. This act shall take effect on the first day of September, in the year eighteen hundred and ninety-nine.

Approved May 25, 1899.

#### CHAPTER 468.—*Exemption of trade unions, labor organizations, etc., from the provisions of the law regulating insurance companies, associations, etc.*

SECTION 1. Every trade union or other association of wage-workers, whose principal objects are to deal with the relations between employers and employees in respect to wages, hours of labor, and other conditions of employment, is hereby exempted from the operation of chapter four hundred and seventy-four of the acts of the year eighteen hundred and ninety-eight, and of such other acts as relate to insurance companies or associations.

SEC. 2. This act shall take effect upon its passage.

[This bill, returned by the governor to the house of representatives, the branch in which it originated, with his objections thereto, was passed by the house June 1, and, in concurrence, by the senate, on the same day, the objections of the governor notwithstanding, in the manner prescribed by the constitution; and thereby has the "force of a law."]

### OREGON.

#### ACTS OF 1898—SPECIAL SESSION.

##### *Exemption from execution, etc.—Wages.*

(Page 11.)

SECTION 1. Section 313 of title II of chapter III of the General Laws of Oregon, as compiled and annotated by W. Lair Hill, is hereby amended so as to read as follows:

SECTION 313. The earnings of a judgment debtor for personal services, at any time within thirty days next preceding the service of an attachment of said earnings upon a garnishee, shall not be included in the judgment in said action against said debtor, when it shall be made to appear by the affidavit of said judgment debtor, or otherwise, that such earnings are necessary for the use of a family supported wholly or partly by the labor of said debtor.

SEC. 2. Inasmuch as great necessity exists for the immediate amendment of said section, this act shall take effect and be in force from and after its approval by the governor.

Approved October 12, 1898.

#### ACTS OF 1899.

##### *Convict labor.*

(Page 84.)

SECTION 1. The superintendent of the Oregon State penitentiary is hereby authorized, and it is made his duty, to furnish and use such convicts as is deemed in his judgment reasonably safe for that purpose to do the work necessary to repair, improve, and properly build and construct the public roads leading from the State penitentiary to the State insane asylum building, and to the asylum farm, and to the deaf-mute school, and to the reform school, and in the vicinity of said public buildings, from time to time, as the weather will permit and said roads are in proper



condition to be worked upon, until said public roads are rendered good, safe, and convenient for the use of teams during all seasons of the year. \* \* \*

SEC. 5. \* \* \* this act shall take effect and be in force from and after its approval by the governor.

Approved February 17, 1899.

*Maintenance or employment of bodies of armed men by corporations, etc., unlawful.*

(Page 96.)

SECTION 1. It shall be unlawful for any person, corporation or association of persons, or agents of any person, or member or agent or officer of any corporation or association of persons, to organize, maintain, or employ an armed body of men in this State for the purpose of assuming, discharging, or attempting to discharge in any city in the State of Oregon any of the duties or occupations properly belonging to the duly organized police patrol of such city.

SEC. 2. It shall be unlawful for any person, corporation or association of persons, or agent of any person, or member, agent, or officer of any corporation or association of persons, to establish or maintain in any city in the State of Oregon any armed or uniformed patrol system not under the direct control and appointed by the proper municipal departments, as provided for in the charter of such city.

SEC. 3. Any and all parties so offending or violating the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than \$1,000 nor more than \$5,000, and in a like sum for each day they shall continue to offend after having been once fined, and in addition to such fine, such offender, if a person, may be imprisoned in the county jail not to exceed one year at the discretion of the court. The fine shall be paid into the general fund of the county in which the offense was committed, and all arms, uniforms, accouterments and other property of a military or police character in possession of such person, member, agent, officer, corporation, or armed body of men shall be seized by the officer making the arrest under the provisions of this act and be forfeited to the State of Oregon.

Approved February 17, 1899.

*Examination, licensing, etc., of barbers.*

(Page 237.)

SECTION 1. Forthwith, after the passage of this act, it shall be unlawful for any person not a registered barber within the meaning of this act to pursue the business of a barber, or to conduct any barber shop, tonsorial parlor, shaving saloon, etc., for the purpose of shaving, cutting hair, or anything in any way pertaining to the occupation of a barber, except as an apprentice under the supervision of a registered barber.

SEC. 2. Within thirty days after the passage of this act the governor shall appoint three persons, selected from the competent barbers of this State, as a board of examiners. It shall be the duty of each member of this board, before entering upon the duties of his office, to appear before an officer duly authorized to administer oaths in this State, and make oath to discharge the duties of a member of this board in a faithful and impartial manner. Each member of this board shall be a barber of not less than four years' experience and a resident of this State for five years. The first term of office of said members of the board shall be two, three, and four years, respectively, and the governor shall designate the term of office of each member of said board when the appointments shall be first made under this act. Members of the board shall meet at such time and place as agreed upon, and shall proceed first to elect, by ballot, a president, a treasurer, and a secretary, who shall hold office one year, or until their successors are elected and qualified. The treasurer of said board shall execute a good and sufficient bond in the sum of \$1,000, for the faithful performance of his duties under this act. Thereafter, the board shall meet and hold examinations as hereinafter provided for, at least quarterly during each year, in at least four different cities in the State. The board shall have power to make such by-laws as it may deem necessary, not inconsistent with the constitution of this State, or with the provisions of this act, and shall prescribe the qualifications of a barber of this State. In case of a vacancy occurring in this board, the governor shall fill such vacancy by appointment from the competent barbers of this State.

SEC. 3. Each member of the said board shall receive \$3 per day for each day actually engaged in the performance of his duties under this act, and also 10 cents per mile for each mile necessarily and actually traveled by him in the discharge of the duties of his office; and the said expenses of said board shall be paid from the fees received by the board under the provisions of this act, and no part of the salary



or other expenses of the board shall be paid out of the State treasury. All moneys received in excess of the said expenses shall be held by the board as a special fund for meeting further expenses of said board. The board shall render an annual report of the work it has done to the governor, and render an account of all moneys received and disbursed by them pursuant to this act.

SEC. 4. Every person now engaged in the occupation of barber in this State shall, within sixty days after the passage of this act, file with the secretary of said board an affidavit setting forth his name, residence, and length of time and the place in which he has practiced such occupation, and shall pay to the treasurer of the board (\$1) one dollar, and thereupon a certificate of registration, entitling him to practice said occupation, shall be issued to him.

SEC. 5. Any other person desiring to obtain a certificate under this act shall make his application to said board therefor, and shall pay to the treasurer of said board an examination fee of (\$5) five dollars, and shall present himself at the next regular meeting of the board for the examination of applicants, whereupon said board shall proceed to examine such person, and, being satisfied as to his qualifications, his name shall be entered by the board upon the register kept by them and a certificate be issued to him: *Provided*, That whenever it appears that the applicant has acquired his knowledge in a barber school the board shall be the judge as to whether or not said barber school is properly appointed and conducted, and under proper instruction to give sufficient training in such trade. All persons making applications under the provisions of this act shall be allowed to practice until the next regular meeting of said board.

SEC. 6. Nothing in this act shall prohibit any person serving as an apprentice in said trade, under a barber authorized to practice the same under this act: *Provided*, Said person shall serve an apprenticeship of three years.

SEC. 7. The said board shall furnish to each person entitled to a certificate under this act a card bearing the seal of the board, and the signature of its president and secretary, stating that the holder thereof is entitled to practice the occupation of barber; and it shall be the duty of the holder of such certificate to post the said certificate or card, or both, in a conspicuous place in front of his working chair, where it may be readily seen by all persons whom he may serve.

SEC. 8. The said board shall keep a register in which shall be entered the names of all persons to whom certificates are issued under this act, and said register shall be open at all times to public inspection.

SEC. 9. The said board shall have power to revoke any certificate granted by it under this act that may have been obtained by fraudulent representations, or otherwise not strictly in accordance with this act, or upon any one of the following grounds: (a) Conviction of felony; (b) habitual drunkenness for six (6) months immediately before a charge duly made; (c) gross incompetency, or (d) contagious or infectious disease: *Provided*, That before any certificate shall be so revoked the holder thereof shall have notice in writing of the charge or charges against him, and shall at a day specified in said notice, at least five (5) days after the service thereof, be given a public hearing and a full opportunity to produce testimony in his behalf and to confront the witnesses against him. Any person whose certificate has been so revoked may, after the expiration of ninety (90) days, apply to have the same regranted to him, upon a satisfactory showing that the disqualification has ceased.

SEC. 10. To shave or trim the beard or cut the hair of any person for hire or reward, received or to be paid at any time in the future, shall be construed as practicing the occupation of barber within the meaning of this act.

SEC. 11. Any person who shall engage in the occupation of a barber in any manner, except as an apprentice as aforesaid, without having obtained a certificate of registration as provided by this act, or willfully employ a barber who has not such a certificate, or falsely pretend to be qualified to practice such occupation under this act, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than (\$10) ten dollars nor more than (\$100) one hundred dollars, or by imprisonment in the county jail not less than five days nor more than fifty days, or by both fine and imprisonment.

SEC. 12. Any person who shaves another person afflicted with syphilis, eczema, blood poison, or any skin disease, who does not, before he again uses his tools, towels, or water, subject them to such disinfection as may remove any virus, scale, or filth that may be on such tools, towels, or instrument, shall be guilty of a misdemeanor, and upon conviction thereof be punished by a fine of not less than (\$20) twenty dollars nor more than (\$50) fifty dollars, or by imprisonment in the county jail not less than ten days nor more than twenty-five days, or by both fine and imprisonment.

SEC. 13. It shall be unlawful for any person who is not a duly registered barber under this act to conduct a barbers' school or give instructions in the art or business of a barber, and if anyone shall violate this section he shall be deemed guilty of a misdemeanor and be punished as provided by section 11 of this act.



SEC. 14. Inasmuch as the public health is endangered by inattention to habits and methods of cleanliness in many of the barber shops in this State, an emergency is hereby declared to exist, and therefore this act shall be in force and effect forthwith upon its approval by the governor.

Filed in the office of the secretary of state February 23, 1899.

*Convict labor.*

(Page 249.)

SECTION 1. All convicts who are able-bodied men and sentenced by any court of legal authority, whether in default of the payment of a fine or committed for a definite number of days to serve a sentence in a county jail, shall during the period of such sentence be under the exclusive and entire control of the county court where the crime was committed; and said county court shall have full power to put such convicts under the control of any road supervisor, who shall have all the authority of a sheriff to guard and keep such convict while in his custody, from the time of leaving until his return to the county jail.

SEC. 2. In all cases where the sentence of the court is for a definite number of days the person so sentenced shall be held to labor for the full period to which he has been adjudged; and in all cases of fines imposed, in default of the payment of such fine such person shall be made to labor at a compensation of \$1 per day until such fine is fully paid; and in all cases not less than eight hours shall be considered a day's labor.

SEC. 3. Any convict sentenced in accordance with the provisions of this act refusing to perform the labor herein required shall be denied all food other than bread and water until he signifies his willingness to comply with the provisions of this act; and for all days or parts of days lost by such refusal such convict shall be made to labor until all lost time shall be made up and the sentence of the court shall be fully met.

Approved, February 24, 1899.

**SOUTH CAROLINA.**

**ACTS OF 1899.**

**ACT NO. 7.—*Convict labor.***

SECTION 1. From and after the passage of this act, whenever, in the judgment of the board of county commissioners of any county of this State, there shall not be a sufficient number of convicts sentenced to work on the public works of such county to warrant the expense of maintaining a county chain-gang, the supervisor of such county shall be authorized to contract with the supervisor of any other county in the State for the placing of said convicts into the custody of and upon the chain-gang of said other county, for such a period and upon such terms and conditions as may be mutually agreed upon by said supervisors so contracting: *Provided*, That said contract shall require payment of a reasonable price therein to be stipulated, for the work of said convicts, or shall provide for an equal exchange of convict labor between the counties so contracting.

SEC. 2. The supervisor of any county of this State is hereby authorized to contract with the supervisor of any other county of this State, desiring to hire out convicts or to exchange convict labor as herein provided, upon such terms as may be mutually agreed upon; and to this end said supervisors are hereby vested with all necessary powers as if said convicts were convicted and sentenced in their own counties respectively: *Provided*, That all contracts entered into by any supervisor hereunder for the hire or exchange of convicts hereunder be approved by a majority of the board of county commissioners of his county.

SEC. 3. Any county in this State maintaining a chain-gang and hiring convicts of another county, or exchanging convict labor with such other county, as herein provided, shall at its own expense board, clothe, and securely keep such convicts while in the custody of its officers.

SEC. 4. Any money due any county under any contract herein authorized shall be collected by the treasurer of such county and turned into the county treasury, to aid in defraying the current and ordinary expenses of such county, and any money due by any county under any contract herein authorized shall be paid by the treasurer of such county upon the warrant of the supervisor thereof, as other county funds are disbursed.

SEC. 5. All acts and parts of acts inconsistent with this act are hereby repealed.

Approved February 15, 1899.



ACT No. 9.—*Convict labor.*

SECTION 1. On and after the approval of this act, the county board of commissioners shall have power and authority, in their discretion, to utilize the county chain-gang in whole or in part in any kind of work calculated to promote or conserve public health in the county or in any community thereof, in which the sentences of the convicts on such gang were pronounced.

Approved March 2, 1899.

ACT No. 10.—*Convict labor.*

SECTION 1. An act entitled an act to amend section 662 of the Revised Statutes of 1893, vol. I, being section 23 of an act entitled "An act to provide a system of county government for the several counties of the State," approved January 4, 1894, is hereby amended \* \* \* so that said section \* \* \* shall read as follows:

SECTION 662. From and after the passage of this act all the courts of this State and municipal authorities which under existing laws have power to sentence convicts to confinement in prison with hard labor, shall sentence all able-bodied male convicts to hard labor upon the public works of the county in which said person shall have been convicted, and in the alternative to imprisonment in the county jail or State penitentiary at hard labor: *Provided*, That municipal authorities may sentence municipal convicts to work upon the streets and other public works of the municipality in which they have been convicted, and such convicts when so sentenced shall work under the exclusive direction and control of the municipal authority imposing sentence: *Provided*, That no convict whose sentence shall be for a period longer than five years shall be so sentenced.

Approved January 2, 1899.

ACT No. 52.—*Payment of wages to discharged laborers by corporations.*

SECTION 1. [If] any corporation carrying on any business in this State in which laborers are employed, whose wages, under the business rules or custom of such corporation, are paid monthly on a fixed day beyond the end of the month in which the labor is performed, shall discharge any such laborer, the wages which have been earned by such discharged laborer shall become immediately due and payable.

Approved March 6, 1899.

ACT No. 71.—*Seats for female employees.*

SECTION 1. It shall be the duty of all employers of females in any mercantile establishment, or any place where goods or wares or merchandise are offered for sale, to provide and maintain chairs or stools, or other suitable seats, for the use of such female employees, to the number of one seat for every three females employed, and to permit the use of such seats by such employees, at reasonable times, to such an extent as may be requisite for the preservation of their health. And such employees shall be permitted to use same, as above set forth, in front of the counter, table, desk or any fixture when the female employee for the use of whom said seat shall be kept and maintained is principally engaged in front of said counter, table, desk or fixture; and behind such counter, table, desk or fixture when the female employee for the use of whom said seat shall be kept and maintained is principally engaged behind said counter, table, desk or fixture.

SEC. 2. Any person who violates or omits to comply with any of the foregoing provisions of this act, or who suffers or permits any woman to stand, in violation of its provisions, shall be guilty of a misdemeanor, and, on conviction, shall be punished by a fine of not less than twenty dollars nor more than one hundred dollars for each offense.

Approved March 6, 1899.

ACT No. 72.—*Sunday labor.*

SECTION 1. On and after the approval of this act, in addition to the penalties prescribed against tradesmen, artificers, workmen and laborers who shall do or exercise any worldly labor, business or work of their ordinary calling upon the Lord's day (commonly called the Sabbath) or Sunday, or any part thereof, any corporation, company, firm or person who shall order, require or direct any work to be done in any machine shop or shops on Sunday, except in cases of emergency, shall, upon conviction, be deemed guilty of a misdemeanor, and shall be fined in a sum not less than one hundred dollars and not more than five hundred dollars for each offense.

SEC. 2. All acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 6, 1899.



## UTAH.

## ACTS OF 1899.

CHAPTER 58.—*Attorney's fees in suits to enforce mechanics' liens.*

SECTION 1. Section 1400 of the Revised Statutes of Utah, 1898, \* \* \* is amended so as to read as follows:

SECTION 1400—Attorney's fee.—In any action brought to enforce any lien under this chapter, the successful party shall be entitled to recover a reasonable attorney's fee, to be fixed by the court not to exceed twenty-five dollars which shall be taxed as costs in the action

SEC. 2. This act shall take effect upon approval.

Approved March 9, 1899.

CHAPTER 66.—*Exemption from execution.*

SECTION 1. Section 3245 of the Revised Statutes of the State of Utah of 1898 \* \* \* is hereby amended so as to read as follows:

SECTION 3245—Property exempt from execution.—The following property is exempt from execution, except as herein otherwise specially provided:

1. Chairs, tables and desks, to the value of two hundred dollars, and the library belonging to the judgment debtor, also musical instruments in actual use in the family.

2. Necessary household, table and kitchen furniture, belonging to the judgment debtor, to the value of three hundred dollars; also one sewing machine, all family hanging pictures, oil paintings, and drawings, portraits and their necessary frames; all carpets in use; provisions actually provided for individual or family use sufficient for three months; two cows with their sucking calves; two hogs with all sucking pigs; all wearing apparel of every person or family; also all beds or bedding of every person or family: *Provided*, That if the judgment debtor be the head of a family consisting of five or more members there shall be a further exemption of two cows and their sucking calves.

3. The farming utensils or implements of husbandry of a farmer not exceeding in value the sum of three hundred dollars; also two oxen, or two horses, or two mules and their harness, one cart or wagon, also all seed, grain, or vegetables actually provided, reserved, or on hand for the purpose of planting or sowing at any time within the ensuing six months, not exceeding in value the sum of two hundred dollars; crops, whether growing or harvested, and the proceeds thereof, not exceeding in value two hundred dollars.

4. The tools, tool chest, and implements of a mechanic or artisan, necessary to carry on his trade, not exceeding in value the sum of five hundred dollars; the notarial seal and records of a notary public; the instruments and chests of a surgeon, physician, surveyor, and dentist, necessary to the exercise of their professions, with their scientific and professional libraries, and the law professional libraries and office furniture of attorneys, counselors, and judges, and the libraries of ministers of the gospel, and the typewriting machine of a stenographer, typewriter, copyist, and reporter; and the type, presses and material of a printer or publisher necessary in the pursuit of his business not exceeding in value the sum of five hundred dollars.

5. The cabin or dwelling of a miner not exceeding in value the sum of five hundred dollars; also his sluices, pipes, hose, windlass, derrick, cars, pumps, and tools not exceeding in value five hundred dollars.

6. Two oxen, two horses, or two mules, and their harness; and a cart or wagon, one dray or truck, by the use of which a cartman, drayman, truckman, huckster, peddler, hackman, teamster, or other laborer habitually earns his living; and one horse with vehicle and harness or other equipments used by a physician, surgeon, or minister of the gospel, in making his professional visits.

7. The earnings of the judgment debtor for personal services rendered within sixty days next preceding the levy of the execution, by garnishment or otherwise, if the judgment debtor be a married man, or with a family dependent upon him for support.

8. All money, benefits, privileges, or immunities accruing, or in any manner growing out of any life insurance on the life of the debtor, if the annual premiums paid do not exceed five hundred dollars.

9. All arms, ammunition, uniforms, and accouterments required by law to be kept by any person.

\* \* \* \* \*

11. A homestead selected or claimed as provided in the title "Homesteads" of the Revised Statutes of Utah.

Approved March 9, 1899.



## WEST VIRGINIA.

## ACTS OF 1899.

CHAPTER 13.—*Labor day.*

SECTION 1. The following named days [shall] be regarded, treated and observed as legal holidays, viz: \* \* \* the first Monday in September, commonly called "Labor Day;" \* \* \* and when either of said days or dates falls on Sunday, then it shall be lawful to observe the succeeding Monday as such holiday: \* \* \*.

Passed February 18, 1899. In effect 90 days from passage. Approved February 21, 1899.

CHAPTER 17.—*Hours of labor on public works.*

SECTION 1. Eight hours shall constitute a day's work for all laborers, workmen, and mechanics, who may be employed by or on behalf of the State of West Virginia.

SEC. 2. The service and employment of all laborers and mechanics who are now or may hereafter be employed by or on behalf of the State of West Virginia or by any contractor or subcontractor upon any of the public works of the State of West Virginia is hereby limited and restricted to eight hours in any one calendar day, and it shall be unlawful for any officer of the West Virginia State government or any such contractor or subcontractor whose duty it shall be to employ, direct or control the service of such laborers or mechanics to require or permit any such laborers or mechanics to work more than eight hours in any calendar day, except in case of extraordinary emergency.

SEC. 3. Any officer or agent of the State of West Virginia or any contractor or subcontractor whose duty it shall be to employ, direct, or control any laborer or mechanic employed upon any of the public works of the State of West Virginia who shall intentionally violate any provisions of this act, shall be deemed guilty of a misdemeanor, and for each and every such offense shall, upon conviction, be punished by a fine not to exceed one thousand dollars or by imprisonment for not more than six months, or by both such fine and imprisonment, in the discretion of the court having jurisdiction thereof.

Passed February 20, 1899. In effect 90 days from passage. Approved February 21, 1899.

CHAPTER 57.—*Establishment of miners' hospitals.*

SECTION 1. There shall be established, and maintained at the expense of the State, three hospitals, to be known as miners' hospitals, and located as follows: One in the Flat Top coal region, either in McDowell or Mercer county, which shall be known as miners' hospital No. 1; one in the New River coal region, either in Fayette or Kanawha county, which shall be known as miners' hospital No. 2; one in the Fairmont coal region, in the county of Marion, which shall be known as miners' hospital No. 3. The actual or specific location of each of said hospitals is to be determined by the respective boards hereinafter provided for.

SEC. 2. Within sixty days after the passage of this act, the governor shall appoint four discreet persons, not more than two of whom shall belong to the same political party, and two of whom shall be residents of the county of Mercer or McDowell, to be known as the board of miners' hospital No. 1; and four discreet persons, not more than two of whom shall belong to the same political party, and at least two of whom shall be citizens of the county of Fayette or Kanawha, to be known as the board of miners' hospital No. 2; and four discreet persons, not more than two of whom shall belong to the same political party, and at least two of whom shall be residents of the county of Marion, to be known as the board of miners' hospital No. 3. Each and all of the persons so appointed shall be citizens and voters of this State, and upon each board there shall be a competent physician, entitled to practice medicine in this State, one person engaged in mining and shipping coal, and one practical coal miner. Of the persons so appointed, two upon each board shall be appointed for two years, and two for four years, and every two years thereafter two shall be appointed for four years. The persons so appointed shall, before entering upon the duties of their offices, take and subscribe an oath that they will support the Constitution of the United States and the constitution of this State, and faithfully discharge the duties of their office during their continuance therein.

SEC. 3. Each of said boards shall, within a reasonable time after their appointment, select a site for the location of their respective hospitals at the points respectively named in the first section. Such location shall be convenient for railroad transportation and contain at least one acre of land, and when so selected the said



board shall respectively cause the land so selected to be conveyed to the State by apt and proper deeds of conveyance, and shall cause the same to be recorded in the proper county: *Provided*, That the land for the sites aforesaid shall be donated to the State free of cost.

\* \* \* \* \*

SEC. 5. It shall be the duty of each of said boards to admit into and treat free of charge any person who has been injured as a passenger on, or an employee of, a railroad, or otherwise injured by a railroad train, or injured or hurt in a coal mine or in the coal business, and they may, when there is room in such hospital, treat any other person who has been injured, or hurt, at the actual cost of the treatment; but in all cases when any of said hospitals may be insufficient to accommodate all those who may apply for admission, preference shall first be given to the coal miner and the railroad employee, or other laborer hazardously employed, who has been injured in and about his employment.

\* \* \* \* \*

SEC. 7. Each of said boards shall, on the first day of January of each year, make a report to the governor showing the condition of the hospital under its charge, the number of patients which may have been treated during the next preceding year, an itemized statement of the costs of running the hospital, and any other information which the board may deem proper to report, or which the governor may require to be reported; and the governor shall, at any time, call upon the said board for information and report as to any matter which he desires to be advised, and upon such demand being made, it shall be the duty of the said boards to make the report and furnish the information so requested by the governor.

\* \* \* \* \*

SEC. 11. Each of said boards shall have power to receive any donation of money or other property which may be made by any person or persons for the use of any of said hospitals, and upon receiving any such donation the said boards shall at once report the fact to the governor, and when required by the latter, and in their next annual report to him, shall give a detailed account of all such donations, and an accurate statement of the manner in which such donations have been used and expended.

Passed February 24, 1899. In effect 90 days from passage. Approved February 25, 1899.



## RECENT GOVERNMENT CONTRACTS.

[The Secretaries of the Treasury, War, and Navy Departments have consented to furnish statements of all contracts for constructions and repairs entered into by them. These as received will appear from time to time in the Bulletin.]

The following contracts have been made by the office of the Supervising Architect of the Treasury:

NEWPORT, KY.—September 23, 1899. Contract with Schumann, Bloss & Co., Cincinnati, Ohio, for construction of post-office, except heating apparatus, electric wiring, and conduits, \$53,000. Work to be completed within one year.

BUFFALO, N. Y.—September 23, 1899. Contract with John Peirce, New York City, for interior finish, plumbing, and approaches for post-office, \$319,850. Work to be completed within fourteen months.

ST. PAUL, MINN.—October 5, 1899. Revoked contract of September 5, 1899, with D. H. Hayes Company, Chicago, Ill., for foundation, superstructure, and roof covering of extension of post-office, court-house, and custom-house, for \$144,000.

ST. PAUL, MINN.—October 5, 1899. Contract with Hennessy & Cox for foundation, superstructure, and roof covering of extension of post-office, court-house, and custom-house, \$179,990. Work to be completed within four hundred and sixteen working days.

BRISTOL, TENN.—October 21, 1899. Contract with Smith & Wilson for construction of custom-house and post-office, except heating apparatus and electric wiring and conduits, \$39,733. Work to be completed within twelve months.

ST. PAUL, MINN.—October 23, 1899. Contract with Davis Heating and Plumbing Co. for extension of heating apparatus, etc., of post-office, court-house, and custom-house, \$15,700. Work to be completed within ninety days after notice that building is ready for the work.



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